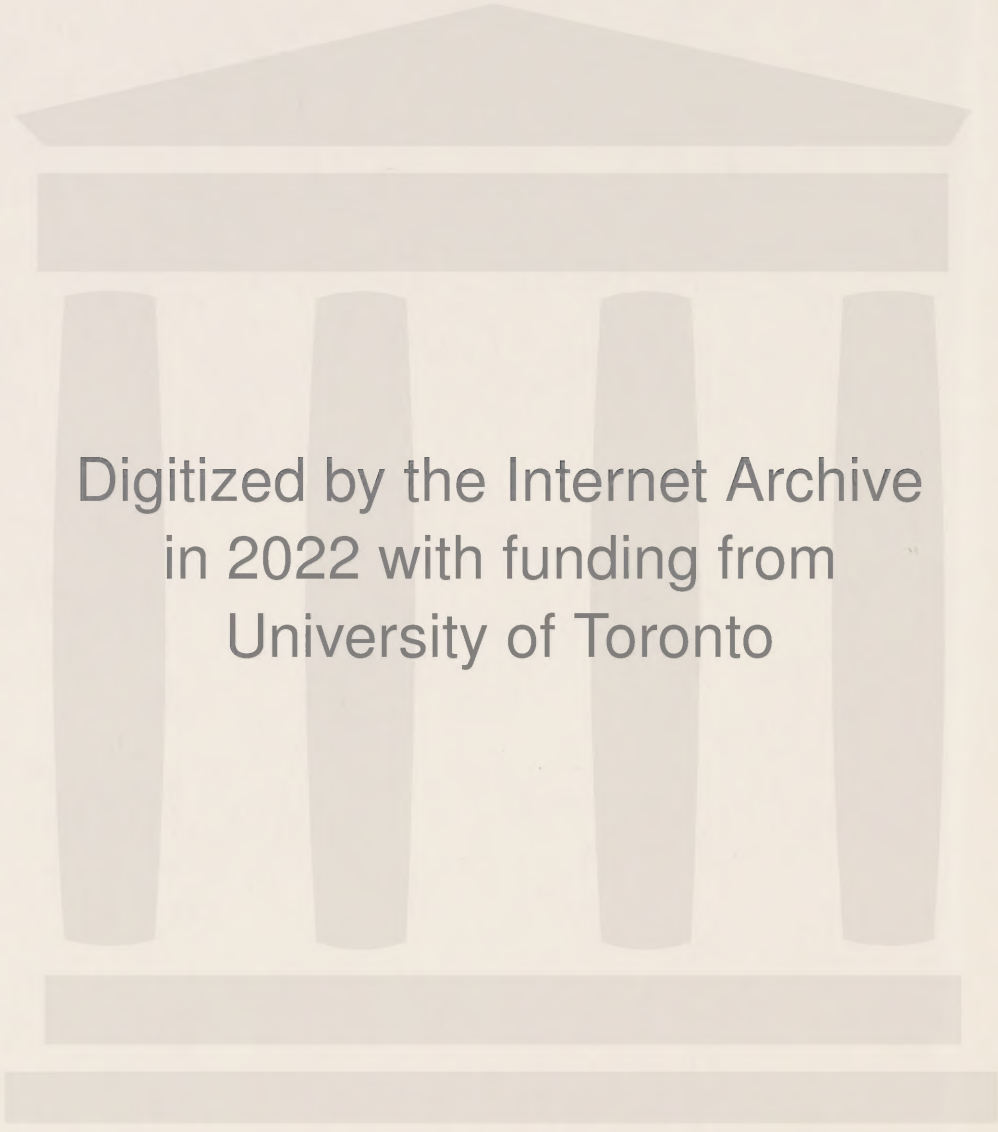

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Première session, 40e législature

Official Report of Debates (Hansard)

Wednesday 29 February 2012

Journal des débats (Hansard)

Mercredi 29 février 2012

Standing Committee on Regulations and Private Bills

Organization

Comité permanent des règlements et des projets de loi d'intérêt privé

Organisation

Chair: Peter Tabuns
Clerk: Tamara Pomanski

Président : Peter Tabuns
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 29 February 2012

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 29 février 2012

The committee met at 0906 in room 151.

ELECTION OF CHAIR

The Clerk of the Committee (Ms. Tamara Pomanski): Good morning. Welcome to the Standing Committee on Regulations and Private Bills.

It is my duty to call upon you to elect a Chair. Pursuant to standing order 117(c) and the sessional paper that was tabled on November 24, 2011, the Chair of the Standing Committee on Regulations and Private Bills must be a member of the third party. Are there any nominations?

Mr. John Vanthof: I'd like to nominate Peter Tabuns.

The Clerk of the Committee (Ms. Tamara Pomanski): Mr. Tabuns has been nominated. Are there any further nominations? Does the member accept the nomination?

Mr. Peter Tabuns: Absolutely.

The Clerk of the Committee (Ms. Tamara Pomanski): Mr. Tabuns, would you please take the chair?

Mr. Peter Tabuns: Sure.

ELECTION OF VICE-CHAIR

The Chair (Mr. Peter Tabuns): Thank you, members of the committee. Our next item of business—I've actually got instructions; this is a wonderful thing.

Good morning, honourable members. It's my duty to entertain a motion for Vice-Chair. Are there any motions?

Mr. Bill Walker: I move that Mr. Vanthof be appointed Vice-Chair of the committee.

The Chair (Mr. Peter Tabuns): Are there any other motions? Are members ready to vote? Shall the motion carry? Done. That's it. I'm picking it up as I go along; bear with me.

APPOINTMENT OF SUBCOMMITTEE

The Chair (Mr. Peter Tabuns): Appointment of subcommittee on committee business.

Mr. Grant Crack: I move that a subcommittee on committee business be appointed to meet from time to time, at the call of the Chair or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary to constitute a meeting;

That the subcommittee be composed of the following members: the Chair as chair, Mr. Vanthof, Mr. Coteau and Mr. Hillier; and

That substitution be permitted on the subcommittee.

The Chair (Mr. Peter Tabuns): Mr. Crack has moved a subcommittee motion. Any discussion or comments? None? I'll now put the question. Shall the motion carry? The motion is carried.

BRIEFING

The Chair (Mr. Peter Tabuns): Next item of business: The briefing by staff on the function of the committee.

The Clerk of the Committee (Ms. Tamara Pomanski): Good morning again. My name is Tamara Pomanski. I'm the committee clerk of this committee.

Just a broad overview of what we do, our role in the committee and how we'll help this committee move forward: As the committee clerk, I'm the principal adviser on the rules, procedures and practices of the committee, and my advice is available to all members at any time on a confidential and impartial basis. Feel free to contact my office, as well as my assistant, Kate. You would have all hopefully received your resource binders a few days ago, and our contact information is on the last page. As well as the procedural advice, I'm also responsible for all the administrative operations of the committee as well as the financials, subject to the direction of the Chair and members of the committee.

In terms of this committee, we have two different parts: There's the private bills part, and then there's the regulations part. I will speak to the private bills in just a brief overview, and my colleague Andrew McNaught, from legislative research, will speak about his role in the committee and the regulations area.

Private bills do not form part of public law and don't have general application to everyone in Ontario. Private bills apply only to those to whom a bill specifically applies. A private bill is initiated by an application from a member of the public and a party seeking legislation. Every applicant must have an MPP in the House sponsor

their bill, so from time to time you may be asked, as members of the Legislature, to sponsor a bill. If you have any questions, feel free to call our office, and we can help walk you through in terms of your role for sponsoring a bill.

For further information on the committee, again, please refer to your resource binders as well as standing orders number 82 to 97, and 108(i), which mandates the committee itself.

Now I'll just pass it along to Andrew.

Mr. Andrew McNaught: Good morning. I'm Andrew McNaught. I'm the research officer and legal counsel to this committee. I've been working with the standing committee on and off for many years. Tamara has just asked me to give you a quick overview of what is probably the lesser-known aspect of this committee's mandate, which is the regulations review.

I'll begin by noting that most Ontario statutes include regulation-making powers, and these powers are typically exercised by either the Lieutenant Governor in Council, the cabinet or the minister responsible for the statute. On average, there are approximately 500 to 550 regulations made under Ontario statutes each year. The purpose of regulations is to provide the legislative details required to carry out the full intent of a bill passed by the Legislature.

An important difference between a bill and a regulation is that bills are debated in the House; regulations are not. In effect, they're made behind closed doors. It is for this reason that a royal commission in the 1960s recommended that a standing committee of the Legislature be established to oversee the way in which regulations are being made. It was in response to those recommendations that this committee acquired its regulations mandate in the mid-1970s. As Tamara mentioned, the committee's regulations mandate is currently set out in the standing orders in 108(i), and it is also described in section 33 of the Legislation Act.

In summary, the act and the standing orders provide that the committee is to conduct an examination of regulations made under Ontario statutes each year, and that in conducting this review, the committee is to consider the scope and method of the exercise of delegated legislative power. In effect, that means that the committee's job is to ensure that regulations are made in compliance with the nine guidelines that are set out in the standing order. I've given you a copy of standing order 108(i), and you'll see that in the middle of the page there, there are these nine guidelines. These guidelines are based on legal principles that are well established in many common-law jurisdictions.

Over the years, the two guidelines that have been most frequently cited in committee reports are guidelines (ii) and (iii). Guideline (ii) reads that "Regulations should be in strict accord with the statute conferring of power." In plain language, that means there should be explicit authority in the statute to make a regulation. So that's one of the main tests that we apply when reviewing a regulation. Guideline (iii) provides that "Regulations should be expressed in precise and unambiguous language." In other words, a regulation should be clearly written.

It's important to note that the committee's mandate explicitly excludes consideration by the committee of the merits of the policy or objectives underlying a regulation. According to the royal commission report which I mentioned earlier, the reason the committee's mandate is limited in this way is that the policy underlying a legislative scheme or framework has already been debated and decided in the House. So it was considered inappropriate for a committee to be able to subsequently open up that policy debate. I think Mr. Hillier has a differing view of that. He introduced a private member's bill last year that would have given this committee the power, among other things, to consider the policy underlying regulations, but we'll see if that is reintroduced this year.

Finally, the act requires the committee to report from time to time its observations, opinions and recommendations to the House. There's no prescribed date by which the committee has to report each year, but the practice in recent years has been that the committee considers a report about once a year.

In terms of the actual mechanics of the review, it's the research officers in my office who conduct the first stage of the regulations review on behalf of the committee. That means that we read all of the regulations published each year and flag possible violations of the committee's guidelines. We then write letters to the ministry legal branches that are responsible for those regulations. Once we receive responses from the ministries, we then consider whether they have adequately addressed our concerns about possible violations. In most cases we accept the ministry explanation, but sometimes we don't.

The next stage is to prepare a draft report for the committee, which includes a discussion of those regulations that, in our view, continue to represent a possible violation of one or more of the committee's guidelines.

The final stage is that the committee meets to consider the draft report. At this point, you basically have three options—that is, you can decide to include a regulation in the committee's final report along with a recommendation; you can decide to include a regulation without a recommendation, in which case you might simply note that there was a disagreement between the committee's legal counsel and the ministry legal branch; and your final option is not to include the regulation in the final report.

Once the committee has agreed to any changes to the draft report, a final report is then tabled in the House.

I have just one last note: Last May, this committee received a draft report on regulations made in 2010, but it was unable to deal with it before the end of the session. So that is one matter that is outstanding before the committee.

The Chair (Mr. Peter Tabuns): Thank you. I have a question from Mr. Sergio and then I'll open for other questions or comments.

Mr. Mario Sergio: Could you mention the subcommittee's responsibilities as well? And if you could

clarify a bit the private members' bills that may come to this committee: How should the committee treat them?

The Chair (Mr. Peter Tabuns): Tamara?

The Clerk of the Committee (Ms. Tamara Pomanski): I'm sorry, what was your question again? Sorry, Mr. Sergio.

Mr. Mario Sergio: The role of the subcommittee and the private members' bills that may be forthcoming to this committee by members.

The Clerk of the Committee (Ms. Tamara Pomanski): Traditionally, the subcommittee will actually meet when it feels it's necessary to decide on how they should handle the bills. For example, the private member's bill that was referred to this committee: How many public hearings should there be? Should the committee travel or not? They make recommendations to the committee, will bring a report forward, and then that's when the committee will decide whether or not to approve it on how to handle the bills.

Mr. Mario Sergio: So in other words, if the subcommittee deals with that, then it means that private members' bills are accepted by this committee?

The Clerk of the Committee (Ms. Tamara Pomanski): Yes.

Mr. Mario Sergio: I wasn't clear with the explanation by Andrew. Okay. Thank you.

The Chair (Mr. Peter Tabuns): Are there other questions or comments? There being none, I understand our business is complete. We stand adjourned.

The committee adjourned at 0919.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 28 March 2012

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 28 mars 2012

The committee met at 0900 in room 151.

The Chair (Mr. Peter Tabuns): Good morning. Will the Standing Committee on Regulations and Private Bills come to order? The items on the agenda are as follows: Bill Pr3, An Act respecting Master's College and Seminary; briefing by Mark Spakowski, chief legislative counsel; consideration of the first draft report on regulations, 2010.

I understand, Mr. Hillier, that you have motions that you will want tabled and we will have them at the end of the other business.

Mr. Randy Hillier: That is fine.

The Chair (Mr. Peter Tabuns): Okay.

MASTER'S COLLEGE AND SEMINARY ACT (TAX RELIEF), 2012

Consideration of the following bill:

Bill Pr3, An Act respecting Master's College and Seminary.

The Chair (Mr. Peter Tabuns): We'll now proceed to the first item of business on the agenda. The first item is Bill Pr3, An Act respecting Master's College and Seminary. Mr. Leal, you'll be sponsoring the bill.

Could we have the applicants please come forward? Could the applicants please introduce themselves for the purposes of Hansard?

Mr. Ken Pelissero: Chair, my name is Ken Pelissero. I'm the director of corporate services at Master's College and Seminary in Peterborough, Ontario.

Mr. Emmet Connolly: My name is Emmet Connolly. I'm the solicitor for Master's College and Seminary.

The Chair (Mr. Peter Tabuns): Mr. Leal, the sponsor, do you have any comments for us?

Mr. Jeff Leal: Thank you very much, Mr. Chair. I'm delighted to be here today with Mr. Pelissero and Mr. Connolly regarding the private member's bill for Master's College and Seminary.

Just to give members of the committee a bit of background: This, many years ago, started as the eastern Canadian Pentecostal Bible college. It has been in Peterborough for a long, long, long time. It has a very distinguished history in our community.

During that period of time, they recruited people from right across Canada to come to Peterborough to become ministers and missionaries in the Pentecostal church. Many of the graduates from the eastern Canadian Pentecostal college, of course, did missionary work around the world and, indeed, missionary work right here in Canada.

For a while, they left Peterborough and they were in Toronto. They did not sell their property in Peterborough; they kept their property in Peterborough.

In fact, Mr. Chair, a number of years ago, members of the committee will recall, there was an evacuation of Kashechewan. Many of the First Nations people from Kashechewan actually came to Peterborough, and we housed them in the residences of the Bible college. It was our opportunity to outreach to some of our citizens who found themselves in very difficult straits.

It's interesting enough, the person that helped organize that evacuation was Julian Fantino, who was then the emergency measures commissioner for the province of Ontario. Mr. Fantino visited Peterborough during that period of time to facilitate the evacuation.

We were very pleased, as a community, to assist those citizens during a period of time when they were in distress. I think that was a great example of the community outreach of the Bible college in Peterborough.

The proposal we have here today is very consistent with a number of bills that have been passed by this committee. A year ago, I was pleased to shepherd through a bill on behalf of the Sisters of St. Joseph in Peterborough with regard to their new convent that they built in Peterborough. Before that, of course, we had a similar bill on behalf of the Sisters of St. Joseph in London, Ontario, and Mr. Miller had a bill on behalf of the Sisters of St. Joseph in Hamilton, Ontario.

So the request today, Mr. Chair, is very consistent with what this committee has done in the past. Let me say, I'm very pleased to be here with Emmet and Mr. Pelissero this morning. Thank you very much, Mr. Chair.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Leal.

Applicants, do you have any comments for us?

Mr. Emmet Connolly: Just to give maybe a little further background on the reason for the requirement now: Back in 2008, the college was in Toronto, as Mr. Leal just indicated, and at that time there was a successful amendment to their act. The reason that they're now in a tenancy situation—again, if they own their land outright as an educational institution, they would be exempt from property tax—the offer they received to purchase

their building was contingent on them being a tenant in the property going forward. That's why the college is in a situation where it again needs to request this special legislation.

The Chair (Mr. Peter Tabuns): Okay. Thank you.

Are there any other interested parties in the room who want to speak to this matter? I don't see any indication of that.

Any comments from the government on this?

Mr. Michael Coteau: I have a question.

The Chair (Mr. Peter Tabuns): Michael.

Mr. Michael Coteau: Is this type of legislation common, and, if so, do you have any examples of this happening in the past?

Mr. Jeff Leal: The Sisters of St. Joseph in Peterborough, a year ago; the former member from London–Fanshawe brought through a similar bill on behalf of St. Joseph's in London, Ontario; and Mr. Miller with St. Joseph's convent in Hamilton, Ontario—so this is a very common occurrence, particularly with many organizations in our community that do a lot of great charitable work and are very involved in their communities. This is very consistent.

Those of us that have had the opportunity to serve at the municipal level of government will know that these requests come on a fairly regular basis to get this tax-exempt status for these organizations.

Mr. Michael Coteau: Thank you.

Mr. Jeff Leal: Mr. Tabuns is nodding because he had a very distinguished career in municipal politics here in Toronto.

The Chair (Mr. Peter Tabuns): He's hoping to get my vote someday.

Are there questions from any other committee members? Mr. Hillier.

Mr. Randy Hillier: Well, I would say that I find this private bill is consistent with the undertakings of this Legislature with respect to private bills, and it does, indeed, meet all the requirements, so we'll be supportive of this private bill.

The Chair (Mr. Peter Tabuns): Great. Okay, are the members ready to vote, then, on the bill itself? If you're ready, we'll go there. You have the bill.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Excellent.

As far as I can tell from my notes, that's it; that's done. We'll do some paperwork here and I will be bringing it into the House. Thank you very much.

Mr. Jeff Leal: Thank you.

Mr. Emmet Connolly: Thank you very much.

BRIEFING

The Chair (Mr. Peter Tabuns): The next item, then: a briefing by Mark Spakowski, chief legislative counsel.

Mr. Mark Spakowski: Good morning. My name is Mark Spakowski. I head the office that drafts regulations, translates them, receives them for filing and then arranges for their publication. So I'm going to give you a brief overview of regulations and the role of our office.

First—and I'm following, roughly, from the outline that Joanne Gottheil of our office prepared; she's the registrar of regulations—regulations are typically law, just as statutes are, but they're made by cabinet, a minister or, in some cases, another person or body. The authority to make regulations is set out in an act of the Legislature. In that sense, it's a delegation from the Legislature to some other official to make law, to make regulations. That's why we often refer to them as "delegated legislation," and that's often a term that's used.

In the handout, there's a brief explanation—a fairly technical explanation—about what a regulation is for the purposes of the Legislation Act that probably isn't of terrible interest to you. With most regulations, it's quite clear that they are regulations, and this is mostly relevant for borderline cases.

0910

As I've noted, it's the act that specifies who makes a regulation, and in almost all cases, that's the Lieutenant Governor in Council, a minister or at least someone else with the approval of one of those officials.

The scope of what can be done by regulation is also set out in the act. The starting point in law is that there's no authority to make a regulation unless the act specifically gives it, and then the act will typically delineate what regulations can be made by defining what scope they can be made in. The common law also provides for rules to interpret or limit reg-making authorities in acts. So there's the words in the statute, but there's also a considerable body of law developed through cases in which the courts have looked at such things and decided that those words should be limited in some way etc.

Now, the making of a regulation needs to be distinguished from the filing of it. The making is when the person who has the authority to make the regulation actually signs or, if it's a group of people, votes to approve it. But regulations are not legally effective unless they're filed in the office of the registrar of regulations, and that's a legal requirement under the Legislation Act. That process is more or less what you'd imagine. The actual copy of the regulation is brought in and filed in our office.

The official who sort of oversees that process is the registrar of regulations. That's a drafter in the Office of Legislative Counsel who's been appointed by the Lieutenant Governor in Council as the registrar. Their duties include overseeing that operation, the filing of regulations; and also generally advising and overseeing the work on regulations by the lawyers in our office, because all of the drafters in the Office of Legislative Counsel will work on regulations. The registrar oversees this process, as do I as the head of the office, but the actual work of preparing regulations is done by the legislative counsel.

When a regulation is filed, it becomes law, and there are legal obligations to publish that. The Legislation Act provides for two methods; they both have to be used. One is it's published on the e-Laws website—that's an electronic publication—and then it's published in the Ontario Gazette. As you know, the Gazette comes out weekly, and if a regulation is filed in a week, it's included in the Gazette on the third Saturday after filing. That's because of the printing and publication requirements of the Gazette.

A regulation becomes law when it's filed, but there are limits on its effectiveness against people before it's published. So it comes into force on filing, unless it actually provides for—sometimes regulations provide for the coming into force on a future date. But it's important to note that the law provides that a regulation is not effective against a person before it is published unless that person has actual notice of it. Publication in either the e-Laws website or the Gazette is publication for this purpose.

The handout explains that in some cases, legislation clarifies that something that can be done under a statute is not a regulation. Sometimes, that's just to clarify doubtful cases, or sometimes it's just to provide that things that would otherwise be caught by that technical definition of "regulation" are not treated as regulations for the purposes of the Legislation Act, and there are a couple of examples there. Typically, these are things like bylaws made by a body, or it can be policies or directives by a minister that aren't really intended to be law per se. They're excluded, so they don't have to go through the filing process or be published in the Gazette in the same way regulations do.

I already noted earlier that the people who actually draft the regulations are legislative drafters or legislative counsel who work in the Office of Legislative Counsel—that's the office I head—and they do this on the instructions of the responsible ministry. So what actually happens is, the ministry is responsible for deciding what the regulation should do, what the policy is—that's how we express it—and then we work with them, we do the drafting, and then it's a process of back and forth until the text of that regulation is settled. We draft it, but the ministry ultimately has responsibility for what it does.

A few notes that may help to understand the different kinds of regulations—and they're described using three different terms here: parent, amending and revocation. In a way, the latter—amending and revocation—are the easiest to explain. An amending regulation is a regulation that just amends some other regulation, and you will have seen those; a revocation, as you'd imagine, revokes a regulation; and a parent regulation is what we think of as a regulation that, on itself, will apply. We use these terms a fair bit, and maybe it's useful for you to understand how we use those terms, although they're not legal technical terms, really.

All of these regs, whether they're new, amending or revocation regs, need to be filed as discussed, and they're all published in the Gazette and on the e-Laws website.

When there's an amending reg, we also incorporate those amendments into the regulation that's being amended, and that regulation which we call a consolidated regulation—i.e., a regulation that consolidates the original regulation as made and then all subsequent amendments—is set out on the e-Laws website. So on the e-Laws website, all the regulations as they're made—which we call source law—are set out, but also all the regulations, with all of the amendments made to them, are set out. That's what we call the consolidated law and that's what applies now. So the consolidated regulations, as well as the consolidated statutes, are all set out on the e-Laws website.

Just a little bit of information on statistics: There are about 1,700 consolidated regulations now, and that number goes up and down as regulations are either revoked or added to. The total regulations in a year that are made—that's either new regulations, amending regulations or revoking regulations—on average, there's a little over 500 a year. That's a little over 2,000 pages in the Gazette.

A note about bilingual regulations: Unlike statutes, not all regulations are bilingual, but a significant proportion are. Currently, a little over 40% of the regulations in Ontario exist in both English and French, and the rest are English only.

As I noted at the very beginning, the French versions of regulations, if there is one—that's something that our office also prepares.

That's the end of the remarks I was going to make.

The Chair (Mr. Peter Tabuns): Thank you very much. Are there questions? Mr. Leal.

Mr. Jeff Leal: Mark, I'm just curious: Ontario has functioned as a province since 1867, and successive governments have brought in legislation and regulation. But if we kind of look back—in 1982, of course, the federal Constitution, or a large part of it, was repatriated back to Canada, and there was the enshrinement of the Charter of Rights and Freedoms. It would seem to me that when that was done, there would have been a whole series of regulations prior to 1982—that there would have been issues.

0920

I know on page 2, you talk about, "Regulations should be in strict accord with the statute conferring of power, particularly concerning personal liberties." Post 1982, was there a review of many regulations that had been on the books, perhaps for 100 years, to see if they were in conformity to the provisions of the Charter of Rights and Freedoms?

Mr. Mark Spakowski: Certainly that's before my time a little bit, but I think that was done.

Mr. Jeff Leal: Was it? Okay.

Mr. Mark Spakowski: My recollection is that when the charter was brought in, its effectiveness was delayed for a certain period of time to allow that, and presumably there was a similar process for statutory law, to bring it into conformity with the charter. I'm not exactly sure how that process went. I imagine it probably would have been led by each ministry looking at its own legislation

to bring it into compliance with the charter, and presumably that would have involved looking both at its statutes and its regulations, and making whatever changes were necessary.

Mr. Jeff Leal: Are provinces required to review their regulations when subsequent decisions are made by the Supreme Court of Canada regarding the Charter of Rights and Freedoms in provincial domain?

Mr. Mark Spakowski: Legally, I'm not aware of any requirement like that, no.

Mr. Jeff Leal: Okay. I'm just curious.

The Chair (Mr. Peter Tabuns): Other questions? Mr. Hillier?

Mr. Randy Hillier: Yes. I'd like to just add a couple of comments in here, first, for all the members of the assembly. Regulations come in many shapes, sizes and forms, and as we were told, there are about 1,700 regulations on the books right at the moment. Here is one of the most simple ones: It's a total of 16 words in length, and it's Ontario regulation 497/07, which created Ornge. I think it's 16 words in length. I didn't bring in the regulations for the Nutrient Management Act, which is about 300 pages in length. So each regulation can be significantly different in its shape and scope.

I think it's important, also, for every member on this committee to understand that this is the last and really the only eyes that the members of the Legislative Assembly have on reviewing or seeing what is done in the name of provincial law in this province. These regulations do not come before the House for discussion or debate. This is the only legislative body that can review the law of the land—it's the only body. We've seen it's very strict criteria that we have for reviewing regulations—but nonetheless very important. Regulations can get us in very hot water, can get governments in hot water. The G20 regulation probably is one that would come to people's minds on a confusing, complicated regulation that, without proper oversight, can cause chaos and confusion. So this is an important body of the Legislature, and reviewing regulations is of utmost importance, I think, to all our constituents as well.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hillier. Any other comments?

Mr. Michael Coteau: A quick question: Why only 41% bilingual bills—or regulations?

Mr. Mark Spakowski: The requirements for the French versions of laws are set out in the French Language Services Act, and it required as of 1990—and it may have actually required it just a little before then—that statues had to be bilingual, at least public statutes. So private statutes, private bills, would be just unilingual. But, as you know, all public bills in the House are bilingual, and as of 1990, all the statutes were translated, so the Revised Statutes of Ontario, 1990, which was a restatement of the statute law as of the end of 1990, is a full bilingual set of laws, and ever since, all the public laws have been bilingual.

That law did not require regulations to all be bilingual, but it provided for that, and it provides for the Attorney General to look at and decide on what regulations should be translated, so over that time, regulations have been either translated, i.e., a French version is added to the existing unilingual regulation, or if a regulation is made newly, it's made in bilingual form. So that's how we've gotten up to 41% from essentially, probably, zero in 1990.

Mr. Michael Coteau: Thank you.

The Chair (Mr. Peter Tabuns): You're satisfied? Mr. Leal.

Mr. Jeff Leal: Thank you very much, Mr. Chair, and through you to Mark, I have lots of lawyers in my family, and I appreciate lawyers do the drafting of regulations.

I just want to follow up from Mr. Hillier. He raises a good point about the Nutrient Management Act. If an individual from the agricultural community goes into ServiceOntario to get information regarding the Nutrient Management Act, is there any attempt to really put a lot of these regulations in what I would call Tim Hortons or Canadian Tire language so they're better understood by the public who may want to go in and seek information about a particular act because it's relevant to their day-to-day operations—in this particular case, an individual owning a farm who wants to comply with the Nutrient Management Act? It's a bit of a challenge, you know.

Mr. Mark Spakowski: It is a challenge. The plain-language movement has actually been a significant aspect of legislative drafting going back quite a few decades now. When I started my career, it was already part of the thinking of new legislative drafters that we should, to the extent possible, draft laws in plain language that everyone can understand. We do do our best to make law understandable not just to lawyers, but of course there are limitations on the subject matter. It's a challenge to make complex legal documents plain to everyone. We do do our best to write things in plain language, and of course ministries will also provide explanatory material in certain cases to further explain how legislation works—and there's lots of examples of that—that supplement the actual text of the law.

Mr. Jeff Leal: Thank you very much.

The Chair (Mr. Peter Tabuns): Any further questions before we go to the next item?

There being none, thank you very much.

DRAFT REPORT ON REGULATIONS

The Chair (Mr. Peter Tabuns): Okay, Andrew. We're now going to consideration of the first draft report on regulations 2010. Research officer Andrew McNaught is here to give us a briefing, and then we'll get into it.

Mr. Andrew McNaught: Good morning. I'm Andrew McNaught, counsel to this committee. I'm here this morning to present the committee's draft report on regulations made in 2010.

Just before we get to that report, I draw your attention to a flow chart that was just distributed, which I hope places the committee's regulations review process in the context of the larger regulation-making process.

Just as a quick refresher, the committee's mandate under the Legislation Act and the standing orders is to review the regulations made under Ontario statutes each year and to assess their compliance with nine guidelines that are set out in standing order 108(i). As an example, perhaps the most important guideline is that there should be authority in the enabling statute to make the regulation in the first place.

Our office, the Legislative Research Service, conducts the initial review of regulations and raises potential guideline violations with the legal branches at the various ministries. After considering the ministry responses, we deliver a draft report to the committee setting out the regulations we feel still represent a potential guideline violation.

0930

That's where we are today. The report in front of you covers the 531 regulations made in 2010. I just note that we're looking at regulations made in 2010; this report was first delivered to the committee last May, towards the end of the last Parliament, and the committee at that time decided that it didn't have enough time to consider the report, so it's been moved forward, carried over to this Parliament.

Just looking at the report, the first six pages of the report and the four appendices set out what we would see as the usual statistical information and other background information. I'll just stop there to see if there are any questions about those sections of the report, and if there aren't, we can just go to the substance of the report, which begins on page 7.

The Chair (Mr. Peter Tabuns): Mr. Hillier.

Mr. Randy Hillier: I just have a—2010, as I mentioned earlier, was what I'll refer to as the G20 regulation, and I don't see it in the draft report at all. If you could comment on that, because, again, one of those criteria is "precise and unambiguous language." I've read that regulation quite a few times and still don't understand it. Maybe if you can just comment on why we don't see that further on in the report.

Mr. Andrew McNaught: Well, we reviewed that regulation. If you've looked at it, you'll see that it's a property description; it's a legal property description.

Mr. Randy Hillier: Yes.

Mr. Andrew McNaught: So when we looked at it—sorry, just to back up, it designates certain areas of downtown Toronto as a public work for the purposes of the Public Works Protection Act. When we look at the regulation, nothing out of the ordinary jumps out at you. As I say, it's simply a property description. So, in applying the nine guidelines, there was clear statutory authority to make the regulation, and as I say, nothing else jumped out at us. When you look at it, you know, all property descriptions are rather technical, and it's hard to know what their effect is until they're put into practice, I suppose.

I think, in hindsight, we might have said that that regulation could have been more clearly drafted, but the larger issues that emerged afterwards, related to the constitutionality of the act itself, which had been in place for—you know, it was a wartime era statute, and those larger issues were discussed in the Ombudsman's report and Mr. McMurtry's report. By the time we got to review that regulation, those two reviews were under way, and we felt we couldn't really add to those.

Mr. Randy Hillier: Is there anything that prevents a regulation from using visuals as a descriptive mechanism?

Mr. Andrew McNaught: No, I don't think so. If you're asking, could there have been a map of some sort included with that—

Mr. Randy Hillier: Yes.

Mr. Andrew McNaught: —perhaps, again in hindsight, that might have been a good idea, but I don't think there's any restriction in that regard.

Mr. Randy Hillier: Okay.

The Chair (Mr. Peter Tabuns): Satisfied with that answer?

Mr. Randy Hillier: Yes.

The Chair (Mr. Peter Tabuns): Any other questions from the committee? There being none, please proceed.

Mr. Andrew McNaught: So, as I said, the substance of the report begins on page 7, and the first regulation we're proposing to report is under the heading "Ministry of Community Safety and Correctional Services." This regulation is made under the Ministry of Correctional Services Act and deals with conditions in provincial correctional institutions.

Now, at issue is a provision that authorizes the superintendent of a correctional facility to impose certain "penalties"—that's the term used in the reg—on inmates for misconduct, and we've listed some of those penalties at the top of page 8 of the report. You'll see they include revocation of temporary absence rights, loss of earned remission and that kind of thing.

We initially flagged this as a potential violation of the committee's sixth guideline, which provides that a regulation "should not impose a fine, imprisonment or other penalty." The principle here is that when the Legislature is going to impose a penalty, it should do so through legislation rather than by regulation.

So, given that the regulation uses the term "penalties" and that some of these penalties included some significant restrictions on personal liberties, we asked the ministry to comment on the possible application of the sixth guideline The ministry's view is that the term "penalty," as used in the committee's guideline, should be interpreted to mean a penalty imposed for the commission of a criminal offence or a provincial offence. In the ministry's view, the regulation in question is authorizing sanctions that are to be imposed to maintain discipline inside a correctional facility and should not be seen as an additional penalty imposed for the commission of an offence. In support of this position, the ministry cites a Supreme Court decision which we've quoted at the top of page 9.

As we indicate in the text that follows, we agree with the ministry's interpretation of the sixth guideline and

that it does not apply in this instance. However, in a follow-up inquiry, we asked whether the purpose of the regulation might be clearer if the words "disciplinary measures" were substituted for the word "penalties" in the regulation. At the bottom of page 9, you'll see, somewhat to our surprise, that the ministry agrees with us, so that we have a recommendation at the top of page 10 that the ministry amend the regulation by substituting the words "disciplinary measures" or similar wording for the word "penalties" wherever it occurs in the regulation.

I'll just stop there and see if there's any comment.

The Chair (Mr. Peter Tabuns): Are there any questions? Mr. Hillier.

Mr. Randy Hillier: I'll get to the question on that, but I just want to go back a little bit. On the top of page 7, in the report it says you inquired about 23 regulations and you received responses for all but three regulations. Does it identify which three regulations and which ministries failed to respond?

Mr. Andrew McNaught: No, we have not identified those.

Mr. Randy Hillier: Could you make that available to us?

Mr. Andrew McNaught: I can go back and check those, yes.

Mr. Randy Hillier: The one other thing that I would like the committee to consider on all these recommendations is that recommendations that are advanced include a mechanism or a request for reporting back to the committee and some means or method of actually tracking and making sure that what the committee is requesting is done or—

Mr. Andrew McNaught: In some cases, we have asked that, but it's not automatic at this point.

The Chair (Mr. Peter Tabuns): That's logical to me. Out of curiosity, just simply a motion to be carried, or can—

The Deputy Clerk of Committees (Mr. Trevor Day): A motion that the clerk be in touch with the ministries to ask for a response as to what's been done after the report has been tabled.

Mr. Randy Hillier: Yes.

The Chair (Mr. Peter Tabuns): Okay. Can I just clarify, in terms of procedure? You've gone through the beginning of this report, and we're getting into the recommendations now. It makes the most sense to me to have you brief us—and then vote on each recommendation so that we're not going back over previous ground.

Before we go deeper into the recommendations, are there any questions or comments about the first seven pages of this report?

Mr. Michael Coteau: Is it common practice to receive a report like this the morning of and actually go through it and make the recommendations and vote on it? Is that regular procedure?

The Chair (Mr. Peter Tabuns): It was distributed last week.

Mr. Michael Coteau: I didn't see this. I didn't get this in the package.

The Chair (Mr. Peter Tabuns): I understand from the clerk that each package that was delivered had to be signed for and that these were included in the packages.

Mr. Michael Coteau: This document?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Michael Coteau: Okay.

The Chair (Mr. Peter Tabuns): So, you're right: It is not common. Documents have to be circulated in advance.

Are there any other questions about the opening pages?

That being the case, I'd like to proceed on with the recommendations. Is there any further discussion about this recommendation which comes up on page 10? None?

There being no further debate on the recommendation, all those in favour, please raise your hand. All those opposed? Carried.

Mr. McNaught, please proceed.

0940

Mr. Andrew McNaught: The next regulation we're considering is on page 10, under the heading, "Ministry of Community and Social Services." This regulation was made under the Social Work and Social Service Work Act, 2010, and it deals generally with the registration of members of the Ontario College of Social Workers and Social Service Workers.

At issue here is a provision that establishes conditions that apply to an inactive member of the college who wishes to become an active member again. Specifically, the regulation requires that an inactive member who resumes practice as a social worker must pay a penalty if he or she fails to notify the college of their intention to become an active member again.

As with the regulation we just discussed, we initially considered whether this penalty falls within the committee's sixth guideline, and as we discuss on pages 10 and 11 here, we are again agreeing with the ministry's interpretation, which is that the penalty being imposed here is an administrative penalty and therefore falls outside the scope of the committee's sixth guideline, which I mentioned earlier deals more with criminal and provincial offence penalties.

But a further problem we identified was that we could find no authority in the act to make regulations imposing an administrative penalty. The ministry's position is that the authority to impose this kind of penalty falls within its power, within the power of the college to make regulations imposing conditions on certificates of registration, but our view is that the authority to prescribe conditions does not include the authority to prescribe the consequences for failing to meet a condition; in other words, a penalty.

So we have a recommendation in the middle of page 11 that the ministry reconsider whether there is statutory authority to make the provision in question and that the ministry report back to the committee.

The Chair (Mr. Peter Tabuns): Questions. Mrs. Piruzza.

Mrs. Teresa Piruzza: Through you to legal counsel, in terms of both these recommendations, I guess I found it interesting that they both deal with penalties and the definition and interpretation around penalties. So if the regulation is drafted by the lawyers within the ministry and then it comes forward and we review it with respect to where it stands just generally, my question is, is there any kind of review to suggest if this is a common area of concern when you're reviewing legislation—for example, penalties or the interpretation of the word or how that impacts on various regulations—if there is some kind of broader discussion? I just found it interesting that of the recommendations in here, two of them deal with the definition or interpretation of "penalties" and how to apply those. I guess that's just something that struck me as I was reading through this.

Mr. Andrew McNaught: By the way, these are the only two regulations mentioned in the report that deal with penalties, but my understanding is that legislative counsel and ministry branches apply similar criteria to what the committee is authorized to apply here, so they consider these issues when drafting the regulations. So I guess we're just an additional check on top of that. We could go back over the history of this committee to see how many times this kind of problem has arisen, which would give you a sense of how common it is, but beyond that, I don't know how you would—

Mrs. Teresa Piruzza: Again, it was just a general question in terms of, you know, it has come up a couple of times just in this one report. I don't have the background if there was ever some determination of trends with respect to some of the questions that might come forward when these recommendations are brought forward. That's all.

Mr. Andrew McNaught: Well, I'd like to think that we would pick up on that, since we've been doing the review for many years. So if we see something that is recurring over and over again, then we would, I think, bring that to the committee's attention.

Mrs. Teresa Piruzza: Okay. Thank you.

The Chair (Mr. Peter Tabuns): Mr. Hillier?

Mr. Randy Hillier: I think the important aspect on this one is the second part that you mentioned, Andrew, and that is that it's quite significant that any subordinate body, any ministry, when they craft up legislation, do indeed have the authority to do that regulation, to exercise that power. If it hasn't been granted by statute, they should be checked on that. That's a path that leads to not very good ends, when bodies make law and they don't have the authority to do so.

So I would recommend, on this particular one, that we toughen up the language a little bit on the recommendation to the ministry, so that it maybe reads something of this nature: "The committee expects that the Ministry of Community and Social Services revoke the unauthorized penalty provisions enacted under regulation 383/00 and report back when completed."

The Chair (Mr. Peter Tabuns): Comment, Mr. McNaught?

Mr. Andrew McNaught: Well, I just would remind the committee that the mandate is to make recommendations. So I guess you have to be careful about straying into making demands to change a regulation or revoke a regulation, but—

Mr. Randy Hillier: It would still be under a recommendation, but just recognize that there's an expectation, or an elevated expectation, in this matter that regulations need to have the enabling statute.

The Chair (Mr. Peter Tabuns): So if in fact—and I'm picking up on what you're saying, because our power is solely to recommend and to report. But if we were to recommend and state that we expected that the ministry would be acting, it would simply emphasize further that we are not happy with the direction.

Mr. Randy Hillier: Yes.

Mr. Andrew McNaught: It's up to the committee to decide that.

The Chair (Mr. Peter Tabuns): We're not out of order on that? Is that a wording that works for you?

Mr. Randy Hillier: It works for me.

The Chair (Mr. Peter Tabuns): We have an amendment moved by Mr. Hillier. No objections? Okay.

Mrs. Teresa Piruzza: Just to clarify; sorry. So in the wording, then, you're suggesting within the act that if there is language for a ministry that it would be revoked?

Mr. Randy Hillier: No, no.

Mrs. Teresa Piruzza: I'm sorry; I just want to clarify in terms of the language.

Mr. Randy Hillier: It would read, under the title of "Recommendation," "The committee expects that the Ministry of Community and Social Services"—instead of the word "reconsider"—"revoke the unauthorized administrative penalty provisions of regulation 383/00."

Mrs. Teresa Piruzza: But has it been determined that it is unauthorized? Because I read this to say, "reconsider whether it is authorized." So has it been determined that the act does not provide?

Mr. Andrew McNaught: Yes. I mean, we're raising it as an issue. As I say, if you say something similar to what Mr. Hillier has suggested, that the committee "expects" that the ministry will revoke the provision in question, it could be seen as straying into the realm of issuing an order to the ministry, which I think is clearly beyond the committee's mandate. I suppose a compromise might be, "The committee expects that the ministry will reconsider whether there's authority to make the provision," something like that. If the committee simply says, "We expect you to revoke the offending provision"—

Mr. Randy Hillier: Well, I think that is—if there is indeed an unauthorized regulation, that ought to be the expectation of the Legislative Assembly, that it would be revoked.

Mr. Andrew McNaught: So if the ministry determines, on further review of this provision, that it is in violation, that there was no statutory authority, it will revoke that provision.

Mr. Randy Hillier: Yes.

Mr. Andrew McNaught: I'll reword it to that.

Mrs. Teresa Piruzza: Okay. So it's an extension, then, to reconsider it, and if there is no statutory, then to revoke.

0950

Mr. Andrew McNaught: Yes.

Mrs. Teresa Piruzza: I'm just trying to clarify. Okay.

The Chair (Mr. Peter Tabuns): Mr. Leal.

Mr. Jeff Leal: Through you, Mr. Chair, to Mr. Hillier: Is the language suggested by Andrew acceptable to you?

Mr. Randy Hillier: Well, I think he just had that—we'll see what Andrew comes up with in his notes here, I guess, in the final say.

Mr. Jeff Leal: Okay. I just wanted to check.

Mr. Randy Hillier: Yes. But it sounds—you know, again, it's just a matter of elevating the expectation here, or elevating it to the ministry, that there is an expectation that they follow through with their statutory authorities only.

The Chair (Mr. Peter Tabuns): Okay.

Mr. Andrew McNaught: Okay, so I'll redraft that and we can reconsider it at the next meeting.

The Chair (Mr. Peter Tabuns): Okay.

Mr. Andrew McNaught: Moving on, the next regulation we're reporting is towards the bottom of page 11. This is a regulation made under the Condominium Act and deals with the funding of condominium reserve funds.

Just by way of background, condominium boards are required, under section 94 of the act, to develop a funding plan that ensures that a condominium's reserve fund will be adequately funded within a certain period of time. That period of time is to be prescribed by regulation.

At the top of page 12, we've reproduced the section of the regulation that prescribes this period of time—and I invite you to read it, if you dare. The difficulty we have with this provision is its convoluted wording, so we flagged it as a possible violation of the committee's third guideline, which is the "precise and unambiguous language" guideline. We asked the ministry whether this provision could be more clearly drafted.

In its response to our letter, the ministry acknowledges that it's a difficult provision to read, and they say the reason for this is that you have to refer back to section 92 of the act in order to understand the regulation. However, they're not offering to redraft this. We're saying that the difficulty in understanding this regulation is not the fact that you have to refer back to the act; it's simply the convoluted wording that's been employed here. So that's our recommendation at the bottom of page 12, that the—

Interruption.

The Chair (Mr. Peter Tabuns): Mr. McNaught, sorry to interrupt. That's an adjournment motion—a 30-minute bell. We have to be back in the chamber at 10:15, just to let you know the time remaining.

Sorry, Mr. McNaught. Please proceed.

Mr. Andrew McNaught: The recommendation at the bottom of page 12 is that the ministry make a plain-language amendment to this provision.

The Chair (Mr. Peter Tabuns): Is there discussion on this? Is anyone against plain language? Ms. Piruzza.

Mrs. Teresa Piruzza: I was just going to say, if there's anything, plain language is the way to go with some of this. If I have to open three different acts to try to figure out what I'm reading, it needs to be a little bit plainer.

The Chair (Mr. Peter Tabuns): Okay. Any further debate on this recommendation? All those in favour, please raise your hands. All those opposed? It is carried.

Mr. McNaught.

Mr. Andrew McNaught: The next regulation is at the top of page 13 of the report, under the Ministry of Training, Colleges and Universities. The regulations in this section are the French-language versions of two regulations made under the Apprenticeship and Certification Act. You heard Mr. Spakowski earlier talk about the bilingual requirements of regulations.

The issue here is really a technicality. The act says that the regulations should have been made by the minister, but, in fact, they were made by cabinet. The ministry acknowledges that this was an administrative error, but they're suggesting that the fact that the minister recommended to cabinet that the regulations be made is sufficient to correct the error. We're taking a strict interpretation here in saying that the act clearly states that the minister is to make the regulations, not recommend them. So at the top of page 14, we're recommending that the Ministry of Training, Colleges and Universities remake the French-language version of these regulations.

I just note that we made similar recommendations in previous reports on this.

The Chair (Mr. Peter Tabuns): Is there any discussion or questions for Mr. McNaught?

There being none, all those in favour, please raise your hand. All those opposed? Carried.

Mr. McNaught.

Mr. Andrew McNaught: Okay. On page 14, under Ministry of Health and Long-Term Care, we have a regulation made under the Long-Term Care Homes Act, 2007. It's the first regulation made under that act. The provisions in question here deal with long-term-care homes that are established by municipalities in territorial districts of northern Ontario.

Under the act, the board of management for a territorial district home is required to estimate the operating and capital costs of the home, and the supporting municipalities in the district are required to make payments to the board to cover their share of these costs. So for this purpose, the act provides that the cabinet is to make regulations specifying the times by which municipalities are to make these payments each year. However, the regulation that's been made under this authority does not specify times; it simply provides that the boards of management are to establish the times by which municipalities are to make these annual payments.

We asked the ministry about the authority of cabinet to delegate its responsibility for prescribing the time for making payments to long-term-care homes. The ministry's view is that there's no strict rule against delegating regulation-making authority, but our review of the case law on this issue, which we've noted on page 15, suggests that when a statute says that a certain person or body is to specify a time by which something is to be done, as is the case here, then it is that person or body that must specify the time. They cannot delegate this responsibility to somebody else.

That's our recommendation at the bottom of page 15—that the ministry amend the regulation to specify the time by which payments required under the act must be made.

The Chair (Mr. Peter Tabuns): Any questions for Mr. McNaught? Well explained, then.

All those in favour? All those opposed? It is carried. Mr. McNaught.

Mr. Randy Hillier: Chair, could I interject? It would seem there are some bells coming, and the next one is indeed a little bit more substantial. It deals with charter items. Maybe people would like to have a little bit more time to review that one. Could we table that next recommendation until later, until the next sitting?

The Chair (Mr. Peter Tabuns): This is the recommendation on page 17?

Mr. Randy Hillier: That's correct.

The Chair (Mr. Peter Tabuns): Is there any difficulty with that? I accept that recommendation. We will table that for consideration at our next meeting.

Mr. Andrew McNaught: Well, that was the last recommendation we're bringing to your attention.

The Chair (Mr. Peter Tabuns): We have carried a number of recommendations. We have to come back to this document next week. You have some instructions for drafting. My matter has been tabled. We have to leave here at 10:05 and you have a motion that you want to table.

Mr. Randy Hillier: Yes. I'd like to table two motions, Chair. These motions both come out of the royal commission by James McRuer that was in the 1960s that actually created this committee.

The first one is that the Standing Committee on Regulations and Private Bills recommend to the Standing Committee on the Legislative Assembly that the standing orders of the House pertaining to the Standing Committee on Regulations and Private Bills be amended to include that the committee shall review regulations to ensure that the regulation does not make any unusual or unexpected delegations of power.

Mr. McNaught has done up research that I'd like to make available to all the committee members so that they can review where the rationale for this motion comes from. It indeed was one of the substantial recommendations that was, I'll say, expected to be adopted when this committee was originally created.

The second one, again, comes out of that royal commission inquiry. It was a recommendation, and it is: that the Standing Committee on Regulations and Private Bills recommends to the Standing Committee on the Legislative Assembly that the standing orders of the House be amended such that any member is permitted during introduction of bills to table a motion requesting a review and debate upon the merits of any regulation filed with the registrar of regulations.

If this motion is passed, the government would ensure the motion is debated within that session of Parliament and allow for up to two hours of debate on that regulation.

The Chair (Mr. Peter Tabuns): Now, this is just being tabled. We're not debating it today.

Mr. Jeff Leal: I just wanted to ask Mr. Hillier a question.

The Chair (Mr. Peter Tabuns): If you want to make a comment.

Mr. Jeff Leal: Through you, Mr. Chair: Mr. Hillier, you referenced a royal commission.

Mr. Randy Hillier: Yes.

Mr. Jeff Leal: Was the royal commission set up in response to something, or was the royal commission established to provide a framework for the establishment of a new committee here at Queen's Park? I just want to get a bit of the background, please.

Mr. Randy Hillier: The name of the royal commission was the inquiry into civil rights. It was a very lengthy—it spanned a number of years, and it was chaired by the Chief High Court Justice of Ontario at the time.

Mr. Jeff Leal: Sure.

Mr. Randy Hillier: That royal commission put out five volumes of recommendations and rationales to improve the freedoms and safeguard the liberties of residents of Ontario. One of those substantial recommendations was the creation of an oversight body of the Legislature on regulations. It listed 10 criteria that this committee ought to look at.

So we do have that background information, and we will ensure—

Mr. Jeff Leal: Thank you.

The Chair (Mr. Peter Tabuns): Mr. Hillier, my suggestion is that the two of you talk directly. This has been tabled. We'll be debating it at our next meeting. In order that we get up in time, I'm going to adjourn the committee.

The committee adjourned at 1002.

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Standing Committee on Regulations and Private Bills

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Mercredi 4 avril 2012

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 4 April 2012

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 4 avril 2012

The committee met at 0901 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Peter Tabuns): In session. First item is the report of the subcommittee.

Mr. Randy Hillier: Mr. Chair, I'd like to table the draft report of the subcommittee.

The Chair (Mr. Peter Tabuns): Do you want to move adoption?

Mr. Randy Hillier: I move adoption, yes.

The Chair (Mr. Peter Tabuns): Would you please read it into the record?

Mr. Randy Hillier: I will.

Your subcommittee on committee business met on Monday, April 2, 2012, to consider the method of proceeding on Bill 16, An Act to amend the Animals for Research Act and the Dog Owners' Liability Act with respect to pit bulls, and recommends the following:

(1) That the committee meet for the purpose of holding public hearings on Wednesday, April 18, 2012, and Wednesday, April 25, 2012, in Toronto.

(2) That the clerk of the committee post information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website.

(3) That the clerk of the committee arrange for the committee hearings to be streamed, if possible.

(4) That interested people who wish to be considered to make an oral presentation on Bill 16 should contact the clerk of the committee by Thursday, April 12, 2012, at 5 p.m.

(5) That, in the event that all witnesses cannot be scheduled, the clerk of the committee provide members of the subcommittee with a list of requests to appear, following the deadline.

(6) That the length of presentations for witnesses be 10 minutes, and up to five minutes for questions on a rotational basis.

(7) That the deadline for written submissions be Wednesday, April 25, 2012, at noon.

(8) That, for administrative purposes, the deadline for filing amendments to the bill with the clerk of the committee be Monday, May 7, 2012, at noon.

(9) That the clerk of the committee provide copies of the amendments received to committee members by the morning of Tuesday, May 8, 2012.

(10) That clause-by-clause consideration of the bill be scheduled for Wednesday, May 9, 2012.

(11) That the research officer provide the committee a summary of the presentations by Friday, April 27, 2012, at 5 p.m.

(12) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

I move that the report of the subcommittee be adopted.

The Chair (Mr. Peter Tabuns): A motion has been moved by Mr. Hillier. Is there any debate? Mr. Walker.

Mr. Bill Walker: May I just offer a friendly amendment, to add a time to the first bullet? April 18 and 25 at—just so we're clear on what time.

The Chair (Mr. Peter Tabuns): April 18—I'm sorry. Which number?

Mr. Bill Walker: Number one.

The Chair (Mr. Peter Tabuns): So April 18, 2012, and amend the time to—

Mr. Bill Walker: To 8 a.m. Thank you.

The Chair (Mr. Peter Tabuns): To 8 a.m. Mr. Sergio.

Mr. Mario Sergio: Just curiosity more than anything else, Mr. Chair. We have no problem with supporting this; I have no problem with supporting this. But why are we dealing with this particular item here on this committee and not through the proper channel, which is the legislative committee of the assembly?

The Chair (Mr. Peter Tabuns): This committee was formed by the House and the bill was directed to this committee by the House.

Mr. Mario Sergio: Upon Mr. Hillier's request?

The Chair (Mr. Peter Tabuns): Upon the vote that was held in the legislative chamber.

Mr. Mario Sergio: My subsequent question to you, Chair, is, are we going to accept at this committee here anything that the House will send to this committee, to be deferred to another committee then for a public hearing? Is this the intent of this particular committee here?

The Chair (Mr. Peter Tabuns): As I understand it, any business that the Legislature refers to this committee, this committee has to take.

Mr. Mario Sergio: I appreciate that. Wouldn't it have been better or have shortened the process if this were to

be sent directly to the legislative committee from the House upon the request of Mr. Hillier?

The Chair (Mr. Peter Tabuns): In fact, Mr. Sergio, we are a committee of the Legislature, and the Legislature referred this bill to this committee. We're following the directions of the Legislative Assembly.

Mr. Mario Sergio: I understand that. I won't harp on this. My question is, Chair, that this committee—it's not going to become something that from the House it comes here and from here it's going to go to another committee?

The Chair (Mr. Peter Tabuns): No. It will come here, be dealt with and go back to the Legislative Assembly.

Mr. Mario Sergio: Okay, because I'm sure that my colleagues on the other side are well aware that there are plenty of avenues open to their colleagues there to deal with matters of justice. So as long as this doesn't become a habit—sending things from the House to this committee here, then to be referred to another committee.

The Chair (Mr. Peter Tabuns): Okay. We can take that information—

Mr. Randy Hillier: Chair?

The Chair (Mr. Peter Tabuns): Mr. Hillier?

Mr. Randy Hillier: Just for clarification, anything that's referred to this committee by the House is dealt with by this committee. There's nothing in the standing orders that prevents any private member from referring a public bill to this committee. That does not create another process; it's the same process. Once this bill is dealt with here in this committee, it will be referred back to the House or whatever the committee desires.

The Chair (Mr. Peter Tabuns): Is there any further debate on the amendment?

Mr. Mario Sergio: What was the—

Mr. Randy Hillier: That we start at 8 a.m.

The Chair (Mr. Peter Tabuns): That the hearings will start at 8 a.m.

Since there's no debate, carried? Carried.

And then the report itself, any further debate? None? Carried.

Interjection.

The Chair (Mr. Peter Tabuns): Carried, as amended. Thank you, Clerk.

DRAFT REPORT ON REGULATIONS

The Chair (Mr. Peter Tabuns): Consideration of the second draft report on regulations, 2010: Mr. McNaught?

Mr. Andrew McNaught: Good morning. So you should have in front of you a copy of the committee's second draft report on regulations made in 2010. It reflects a couple of items that were discussed at last week's meeting. As well, you have one final regulation to consider, which is on page 16.

First of all, as I've indicated in the cover memo, the recommendations are now numbered 1 through 6. Page 7: Last week I was asked about a statement in the first draft which indicated that we had not received responses with respect to three of our inquiries. In fact, we have now received responses from all the ministries; it's just that when that first draft was submitted in May 2011, we had not yet received those responses. We subsequently received those in the summer. So that text has been changed to reflect that we now have responses to all our inquiries.

On page 11 is recommendation 2. There was discussion last week about adding some text to that recommendation, and you see the new text underlined in the recommendation box. So perhaps you want to discuss that now.

The Chair (Mr. Peter Tabuns): Is there any debate about this amended recommendation? If there is no debate, carried? Carried.

Mr. McNaught.

0910

Mr. Andrew McNaught: Okay, so last week we left off at the top of page 16. There you'll see a regulation that was made under the Pharmacy Act. That regulation deals with the reinstatement of former members of the Ontario College of Pharmacists, that is, members who have resigned or ceased to be members for whatever reason and who now want to become members of the college again.

The relevant provision of the regulation is section 24(3), which we've reproduced for you in the middle of page 16. That regulation provides that former members of the college are ineligible for reinstatement if they have been the subject of a proceeding involving any of the offences listed in subsection 24(3)(b). So that is if they have been involved in any of those proceedings at any time since ceasing to be a member of the college.

This section, I think, stands out because, unlike other parts of the regulation dealing with eligibility for registration, this one does not say that the former member is ineligible because they had been convicted of one of these offences or because he or she is the subject of a current proceeding that is still ongoing; it simply provides that the former member is ineligible by virtue of having been the subject of a proceeding at any time since ceasing to be a member, regardless of the outcome of that proceeding.

The effect of this is that even if you've been involved in a criminal or professional disciplinary proceeding and acquitted of all charges, or the case had simply been thrown out, you would still be ineligible for reinstatement under this provision. It appeared to us that this regulation may be denying a right on the basis of a presumption of guilt.

So we wrote to the ministry and asked whether the regulation had been considered for compliance with section 11(d) of the Canadian Charter of Rights and Freedoms. That's the section of the charter that guarantees presumption of innocence in a criminal or penal proceeding.

In its response to our inquiry, the ministry noted that the purpose of the regulation is simply to provide a fast-track way for former members to become re-registered, as long as they can show that they don't have any

outstanding matters that might be of concern to the college. The ministry says, "Well, there's no charter issue here because even if you don't meet the criteria for this fast-track registration process, you're free to apply for reinstatement by using the ordinary registration process that's available to anyone else."

Our position is that this doesn't change the fact that the regulation could be rendering someone ineligible for reinstatement on the basis of what amounts to a presumption of guilt. Our recommendation, which we have in the middle of page 17, is that the ministry reassess section 24 of the regulation for compliance with section 11(d) of the charter and the ministry report back to the committee.

The Chair (Mr. Peter Tabuns): Okay, are there questions? Mr. Hillier, then Mr. Sergio.

Mr. Randy Hillier: Thank you, Chair. This is one of these regulations that, I think, justifies this committee being here. This regulation can have such an impact on an individual; it can take away an individual's livelihood just by being an allegation. It's a pretty broad regulation that's in any jurisdiction, any professional or proceeding at all—any proceeding. So I really think on this one I would recommend that we strengthen that recommendation as well, that it goes back to the ministry with a time frame, so that this committee can actually track and know if this regulation has been dealt with and not have it buried if there's a possible election or sometime later on, where the next committee might be another year or two away or whatever. So I would like to put a fairly specific time frame on this—maybe three months might be in order—that the ministry report back to this committee that this has been reassessed. Thank you.

The Chair (Mr. Peter Tabuns): Just to let you know, as well, that at the end of the discussion of this report we can ask for a report back to the House within 120 calendar days.

Mr. Randy Hillier: On the whole report?

The Chair (Mr. Peter Tabuns): Yes. But you want a specific time on this one.

Mr. Randy Hillier: For this one. This one is—

The Chair (Mr. Peter Tabuns): That's fair.

Mr. Randy Hillier: —in my view, a regulation that should be dealt with.

The Chair (Mr. Peter Tabuns): So you are moving an amendment to this.

Mr. Randy Hillier: That we include a time frame of three months for the ministry to report.

The Chair (Mr. Peter Tabuns): Okay. Mr. Sergio, you had a commentary?

Mr. Mario Sergio: No, actually that was my point, that the recommendation does not include a time limit within which the minister is to report back, so yes, it's exactly that. I would like to see that in the recommendation: 90 days or whatever.

The Chair (Mr. Peter Tabuns): Everyone is all right with that recommendation, that amendment?

Is there further debate on the recommendation, as amended? No further debate? We have amended it.

All those in favour of the recommendation, as amended? Opposed? It's carried.

Mr. Mario Sergio: Mr. Chair, just for clarification, that's 120 days or 90 days?

The Chair (Mr. Peter Tabuns): It's 90 days.

So, having gone through all the recommendations, shall the draft report, including—

Mr. Randy Hillier: There's one other. Starting on page 17 and moving over to 18—

The Chair (Mr. Peter Tabuns): There's a commentary.

Mr. Randy Hillier: —there's another note on here about another regulation that's under appeal at the present time, Shoppers Drug Mart, and I just want to ask counsel or the clerks if they have heard anything back. I know it has only been slightly over a year since the leave to appeal, but has there been any decision rendered on that as far as you're aware?

The Chair (Mr. Peter Tabuns): Fair question.

Mr. Andrew McNaught: It is a fair question. I'm going to have to look into that. I'm not sure. I don't think there is a ruling, but I'll report back on that.

The Chair (Mr. Peter Tabuns): You can report back to us at our next committee meeting?

Mr. Andrew McNaught: Sure.

The Chair (Mr. Peter Tabuns): Excellent.

With that question, there being no further debate, shall the draft report, including the recommendations, as amended, carry? Carried.

Who shall sign off on the final copy of the draft? It could be myself, the Chair. All those in favour? Opposed? It's carried.

Upon receipt of the printed report, shall the Chair present the report to the House and move adoption of its recommendations?

All those in favour? Agreed.

We have a potential last resolution. Shall I request that the government table a comprehensive response to the report within 120 calendar days of presentation of the report to the House pursuant to standing order 32(d)? Any further discussion?

Mr. John Vanthof: Does that request supersede our other 90-day—

The Chair (Mr. Peter Tabuns): No. It's in addition to. Any further debate?

All those in favour? Opposed? Carried.

So we're done with that item of business.

0920

STANDING ORDERS REVIEW

The Chair (Mr. Peter Tabuns): The next item of business is consideration of motions filed by Randy Hillier with respect to standing order changes. Mr. Hillier.

Mr. Randy Hillier: Thank you, Chair. Do you care which order I go in on these two motions?

The Chair (Mr. Peter Tabuns): Motion number 1 would be easiest. It would keep the linear flow going, less confusion in the record.

Mr. Randy Hillier: I've sent off to the other committee members, and I hope and trust everybody's received, that research package that Andrew had done up. You've received it, Grant?

Mr. Andrew McNaught: I have copies of it.

Mr. Randy Hillier: Okay. You've got it. I sent it off to everyone.

The Chair (Mr. Peter Tabuns): I wouldn't mind a copy.

Mr. Randy Hillier: I'll start by reading off the motion and then I'll give some of my justification/rationale for it. The motion is:

That the Standing Committee on Regulations and Private Bills recommend to the Standing Committee on the Legislative Assembly that the standing orders of the House pertaining to the Standing Committee on Regulations and Private Bills be amended to include that the committee shall review regulations to ensure that the regulation does not make any unusual or unexpected delegation of power.

Now, when this committee was created, it was originally created due to a royal commission called the Royal Commission Inquiry into Civil Rights. It was chaired by the High Court Chief Justice of Ontario of the day, James McRuer. The royal commission inquiry was to look at where government encroaches into liberties and freedoms of people. It's five volumes in length in total, but it undertook a very broad study over about five years to look at the law, the legislation and the implementation and creation of it to protect civil rights for people.

One of those recommendations was the creation of this committee, a body of legislators to review and scrutinize subordinate legislation of the House. Up until that time, we had no mechanism to review that subordinate legislation, and as we know, that is our role: to provide oversight and accountability to the laws that affect our constituents. All of us will probably agree that we have quite a significant number of regulations in this province. Many of our constituents' concerns that we hear every day in our offices are the result of regulations.

In that royal commission, they provided for 10 recommendations for this committee, 10 very specific prescribed criteria that we should review regulations by. For some reason, we adopted nine of those 10 and not the 10th. Even though the House at the time said there could not be any improvements on the recommendations for creating this committee and that we should adopt all 10 criteria, we only adopted nine. According to the research done by our good clerk Andrew here, there is significant evidence to suggest that there was a typographical error many decades ago and the 10th criterion fell out of place. I'd like to rectify that error from decades ago.

I think it should be obvious to us when we look at those very prescribed criteria, as we've just done on the first draft report, where this committee was created to not look at the merits of a regulation, not look at the underlying policy of the regulation. It was viewed that this committee would be a non-partisan committee that would just look at these very prescribed criteria, such as precise and unambiguous language, that the regulations ought not to impose fines and penalties, and without going through the other nine, this 10th one, does the regulation create "any unusual or unexpected delegation of power?" I would say to this committee that if that 10th recommendation had been included earlier, possibly we might not have seen things such as the G20 fiasco. Maybe we wouldn't have seen the present Ornge scandal if this committee had been able to look and determine if a regulation had undue or unexpected delegation of power.

These recommendations are not radical. The UK government has the same or very similar wording in their committee. Australia has the same criteria in their parliamentary system. The Manitoba Legislature's committee provides a little greater and broader scrutiny of regulations, as well as India's. And I think we have seen at least three other provinces that have "unusual or unexpected delegation of power" included in their regulations committee.

I think that many of the problems we deal with as legislators, on behalf of our constituents, are the result of regulations. The more we can do to empower this committee to ensure that there is legislative oversight of regulations—proper, thoughtful legislative oversight—maybe our constituents will have a little bit of an improved relationship with government and we'll have a little bit less workload in our constituency offices if we do have that initial, improved oversight of regulations.

I think I'll leave it at that. I'd be happy to take any questions if there are any. I guess one last part I'll put in there—no, I'll leave that for the other motion. This is in a number of Parliaments throughout the Commonwealth, and I think it would improve the legislative and regulation making bodies that we never see, except once every year or two after they've been made, in a report by this committee.

The Chair (Mr. Peter Tabuns): Mr. Hillier, for proper form, so that it's in Hansard, could you please read the full text?

Mr. Randy Hillier: Okay. Did I not do that? Oh, I didn't move it.

I move that the Standing Committee on Regulations and Private Bills recommend to the Standing Committee on the Legislative Assembly that the standing orders of the House pertaining to the Standing Committee on Regulations and Private Bills be amended to include that the committee shall review regulations to ensure that the regulation does not make any unusual or unexpected delegation of power.

The Chair (Mr. Peter Tabuns): The motion has been moved by Mr. Hillier. Is there any debate?

Mr. Michael Coteau: Just a quick point: Does the Standing Committee on the Legislative Assembly currently do the review of—do they review it currently?

Mr. Randy Hillier: Review for "unusual or unexpected delegation"?

Mr. Michael Coteau: Just the standing orders that come forward that you're talking about. Is it a repetitive piece, like if you have one committee reviewing those standing orders and regulations and then asking them to be sent here?

Mr. Randy Hillier: I'll just provide the rationale, maybe, for that.

The Chair (Mr. Peter Tabuns): Just a second.

Mr. Michael Coteau: Through you, Mr. Chair.

The Chair (Mr. Peter Tabuns): The mandate of the Standing Committee on the Legislative Assembly is to review the standing orders.

0930

Mr. Michael Coteau: So we're asking that some of those standing orders that may be classified as an unusual or unexpected delegation of power be sent here to be reviewed as well?

Mr. Randy Hillier: May I?

The Chair (Mr. Peter Tabuns): You may.

Mr. Randy Hillier: The rationale behind here, Michael, is: This committee is tasked with reviewing the regulations. No other committees are. For us to broaden our scope and to look at unusual or unexpected delegations, we would require a change to the standing orders of the House. So I'm asking this committee if they believe that there's merit to this, that this committee in future look at unexpected or unusual delegations of power. If we believe that that's justified, this motion would then go to the Legislative Assembly committee for their review and their discussion to determine if it should be adopted into the standing orders of the House.

Mr. Michael Coteau: Okay.

The Chair (Mr. Peter Tabuns): Mr. Vanthof.

Mr. John Vanthof: Not specifically to the motion, but in Mr. Hillier's explanation he said that the reason was simply an omission, and I'd like to bring to the committee's attention that there are potentially other reasons why this was omitted.

On page 3, "On the other hand, a former registrar of regulations was of the opinion that the omission was not inadvertent. In his view, it was more likely that the 'unusual or expected use' guideline was rejected because it would allow the standing committee to consider the policy underlying a regulation."

So, as we discuss this, I think we have to keep that in mind.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Vanthof. Is there further debate on this matter? Mr. Sergio.

Mr. Mario Sergio: Mr. Chairman, more for clarification than anything else: I have no problem supporting both motions as they are, but what I would like to see—I think there are merits and consequences attached to both motions. It is very hard to try and pay attention to what Mr. Hillier is saying and read this brief report, which I have seen for the first time today.

Also, I would like to see, from the proper—I don't know which ministry would be dealing with this—that either it be present, or ask for a report on the effect of the motions here, because today may affect the working of the particular government or particular ministries. Tomorrow, it may affect another government and particular ministries as well. The last thing we want to do is delay any request or any regulation that may come to this committee.

There could be serious consequences due to the content of the two motions here. If there isn't, wonderful, but if there is, I think I would like to delve deeply into the merits of both motions here and hear from the proper ministry, either being present here so we can have questions or ask for a report from them and then bring them back to the committee.

The Chair (Mr. Peter Tabuns): Mr. Sergio, and with the committee's permission: Mr. McNaught, could you speak to the practical application of this motion?

Mr. Andrew McNaught: It's hard to know since we've never applied it before this, but it's a criterion that is applied in other jurisdictions, as Mr. Hillier mentioned, including Ottawa. The joint standing committee of the House and Senate on regulations there applies this criterion. I know that as of a few years ago, at least, it was the criterion most frequently cited in that committee's reports on regulations. I view it as an extension, perhaps, of the statutory authority criterion that we currently apply, which says that there should be authority in the enabling statute to make the regulation in the first place. So I see it as another variation on that theme.

I don't think it would create too much of an extra burden for us in reviewing the regulations; the issue is more how the ministries would view this. I've indicated in the memo that there was some concern expressed many years ago, I think by Mr. Scott; I'm afraid I don't actually have my copy of the memo in front of me.

Without having actually applied this criterion before, I can't give you a very specific indication of how it would affect the review.

Mr. Mario Sergio: Because of that, we don't want to put you in a spot and answer to our satisfaction the content which may not reflect our views in here, especially on page 3 here with respect to the recommendation by then-Attorney General Ian Scott and his comments in here. Would you like to comment on that yourself, Mr. McNaught, today? Or again, going back to my questions before, I would like to see someone here to ask questions or have a report to this committee so we know the full implications of the two motions.

Mr. Andrew McNaught: Really, I don't think I'm prepared to comment on the implications of the two motions. It's best for you to decide—

Mr. Mario Sergio: You're not. Okay. So, based on that, Mr. Chair, I don't think it's an undue demand on the committee or a question of time. I don't think we are pressed for time. But I think I would like to see some comment on our report on the effect that this may have, because the recommendation by Mr. Scott here is quite

clear, that there are some implications. I would like to have clarification from the Attorney General or whoever is responsible.

Mr. Andrew McNaught: I should just clarify, now that I have the memo in front of me: Mr. Scott's concerns in 1989 were that if this guideline were adopted, it might allow somehow the committee to consider the enabling legislation as opposed to the regulation itself. I don't think that's the intent of the guideline, but that was the concern expressed by the minister at that time. It was really a concern that it might extend the committee's mandate to look at the legislation as opposed to the delegated legislation—the statute as opposed to the regulations.

Mr. Mario Sergio: Well, yes, okay. This is part of my problem with it. We have another committee that looks at legislation, so are we trying to get more power in this committee to look at the working of another, existing committee here? The expression of Mr. Scott as well addresses the significant cost, potential conflict and responsibilities of government or ministries as well. I think I would feel more comfortable if we were to have a quick report from the proper ministries. And I would move that, Mr. Chair.

The Chair (Mr. Peter Tabuns): Mr. Sergio, you're moving a deferral?

Mr. Mario Sergio: Yes.

The Chair (Mr. Peter Tabuns): And a report from?

Mr. Mario Sergio: Who would it be, Mr. McNaught? The Attorney General? Which ministry would be more—

Mr. Andrew McNaught: Well, the 1989 date—I guess it was the Attorney General many years ago.

Mr. Mario Sergio: Okay. So if we could have that by next committee or whatever.

The Chair (Mr. Peter Tabuns): If you'll excuse me a moment while I check.

So, Mr. Sergio, you've moved deferral of consideration pending a report by—

Mr. Mario Sergio: The Attorney General. I don't know within how much time they could provide our committee with a report.

The Chair (Mr. Peter Tabuns): Apparently, we cannot specify. We cannot tell them what their timetable is going to be.

Mr. Mario Sergio: I see. We cannot attach a time limit? No?

The Chair (Mr. Peter Tabuns): Apparently not.

Mr. Mario Sergio: Okay.

The Chair (Mr. Peter Tabuns): We can request, but we can't require; we can't compel.

Mr. Mario Sergio: Okay. Then let's say, "Very kindly, we request a report within six months." Is that enough?

Mr. Randy Hillier: Chair, could I interject?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Randy Hillier: Maybe I could provide some clarification that may alter—

The Chair (Mr. Peter Tabuns): I've got the amendment on the floor. If you want to speak to that amendment, please, Mr. Hillier.

0940

Mr. Randy Hillier: First off, what happened 40 years ago, nobody will be able to ascertain with absolute clarity. Right? Why this came about, you know—it's just not going to happen. But I will read one little bit and then provide what I hope is some clarification.

The first report of this committee in 1978—and this is on page 2—made the following recommendation, and this was the whole committee: "After studying and comparing the criteria adopted by the six jurisdictions mentioned above, as well as the guidelines recommended by the former Chief Justice of the High Court, Mr. McRuer, we have come to the conclusion that we cannot do better than to endorse in total his recommendations and we do so."

If you take a look at the actual wording in the royal commission, word for word is what is in our standing orders of the House, except for that one item, item (i).

Now, to Mario's point about seeking advice from the Attorney General, I'll say this: As this committee does right now with the nine criteria, when we review a regulation with respect to those nine established criteria, that applies to any regulation that the committee looks at in all, because all regulations are permanently referred to this committee. It's over all ministries and over whatever regulations have created other agencies for those ministries. So it's not a case of one ministry having a greater knowledge or depth of understanding of this committee. It applies to all.

The same with the 10th recommendation that I've moved today: That would apply to all ministries. It may impact the Attorney General in some fashion. Depending on what their legislation is, it may impact the Ministry of Health in a totally different fashion. It all depends on what regulations they have created under their statutory authorities.

I don't know if a report from the Attorney General would provide much light or enlightenment to us. If and when that regulation is created and we take a look at it and see that it should be in strict accord with the statute, particularly concerning personal liberties, that it be expressed in precise and unambiguous language, etc., we'd also be looking at, does it create a mechanism for unusual or unexpected delegations of authority? If our good counsel decided that it did and provided the recommendation to us, we would deal with it in exactly the same manner as we just did with the draft report. We would look at the advice from counsel and we would either accept, reject or amend as a committee of this House.

But really, I take it that a number of people haven't seen this research previously. I had expected that we had gotten it all out to everybody, but if the committee wants to sit back and contemplate and reflect on this recommendation, this motion, and come back at another time once they've had further information themselves, I think that would be worthwhile as well.

The Chair (Mr. Peter Tabuns): Mr. Sergio.

Mr. Mario Sergio: I don't want to dwell too much on it. Again, I'm trying to hear Mr. Hillier, then go through this little report at the same time. We have already heard that our counsel really doesn't want to deliver on the report, but further to the recommendation which was read by Mr. Hillier on page 2, again the response by Mr. Scott follows—as quickly I'm trying to go through the report—that, "While the government is prepared to consider this recommendation, it is concerned about the scope of the recommendation and whether it contemplates extending the mandate of the committee to review legislation to determine if a regulation-making power authorizes an unusual or unexpected use of delegated power."

I have no problem with Mr. Hillier, with the two motions here, Mr. Chair. I'm just not sure that I'm doing the right thing myself to say that it's fine and then something is going to come back and bite us in the future. So if it's not too much of an imposition on the committee and say that you want to do it in 60 days—I know we cannot attach a particular time to ask for the minister to respond—I think I would feel much more comfortable. Perhaps then we can have a much clearer view of any possible implications. Again, I'm basing my comments on Mr. Scott's comments here.

The Chair (Mr. Peter Tabuns): Members of the committee, if you'd just permit me for a moment, I have some information that may be helpful.

First of all, Mr. Sergio, this is a recommendation to the Standing Committee on the Legislative Assembly. We don't have final say on this; it's just our committee saying to them, "While you're reviewing the standing orders, we would recommend that you add this to those standing orders."

Secondly, the Standing Committee on the Legislative Assembly is currently reviewing the standing orders, so a decision by us now puts it into the hopper while they're actually considering the matter. They intend to be wrapped up by June. June is not that far away, so if we're going to actually be part of their considerations, we should actually do it relatively soon rather than six months from now. I'm not saying a deferral for a week or two weeks is a bad thing, but keep in mind that if you go too long, you're out of that cycle.

The third point I just want to make—and Mr. McNaught could correct me if I'm wrong—we will not have regulations coming to this committee every week for us to review. This is to add another item to the checklist that counsel will utilize when they do their annual review of regulations. So on an annual basis, when we get the report that we went through this morning, instead of nine criteria there will be 10, giving us an assessment as to whether or not the regulations reflect the appropriate power given in the legislation passed by the chamber. It is not as though every week we will be going through regulations and assessing them.

That said, if you want to continue with your motion of deferral, might I suggest—we're not sitting next week—defer for two weeks so you can talk to your House leader, if you feel deferral is necessary.

Mr. Mario Sergio: Again, I would like to see something as soon as possible, even if we cannot demand that the minister responds by a particular time. I don't know if we should leave it up to the Chair and have the Chair request that the minister respond as soon as possible.

The Chair (Mr. Peter Tabuns): So we have your motion for deferral before us—

Mr. Mario Sergio: A deferral with the request.

The Chair (Mr. Peter Tabuns): Yes, correct. And we have the wording captured?

Interjection.

The Chair (Mr. Peter Tabuns): Sorry, could you repeat—

Mr. Mario Sergio: Clarifications on the two motions, or the content of the motions, really.

The Chair (Mr. Peter Tabuns): Okay. Mr. Hillier.

Mr. Randy Hillier: I just want to reiterate the Chair's statement for the members on the government side. At the present time, the Legislative Assembly committee is conducting significant reviews. I was in there last week and both the Clerk and Deputy Clerk of the House were making presentations to the Legislative Assembly committee. They're in this process.

We do have a number of checks and balances in our system. This is why I've put this motion in this fashion, to take advantage of those checks and balances and make sure that we get it right, that we don't have an omission.

So I really would encourage all members to go with this motion, adopt the motion as it is, have it go to the Legislative Assembly committee. They are tasked, and they will be bringing in subject matter experts, such as the Clerk and the Deputy Clerk and others, who will scrutinize any motion before them as well. If this motion proceeds, I'll be at that Legislative Assembly committee as well making representations on these motions—I would think there will be many people. I don't want to miss that cycle and miss that opportunity to correct what, in my view, is a 40-year-old typographical omission when we look at the complete bundle of evidence before us from research. I would again encourage all members to support this motion, as it is, to the assembly.

0950

Mr. Mario Sergio: Chair, my intention is not to delay the motion. I have no problem sending it through. At the same time, aside from moving this ahead, can we ask for a comment from the ministry without delaying the process here?

The Chair (Mr. Peter Tabuns): Are you withdrawing your motion for deferral?

Mr. Mario Sergio: I will withdraw my motion. I understand what the member is saying, and I can see the time limit we have on our hands as well. I will be satisfied to let it go, move it up and request a comment from the Attorney General on the two reports.

The Chair (Mr. Peter Tabuns): I'll effectively take that as a third resolution from you that we will consider

after we go through these two. The third resolution from you is a request to the Attorney General to comment.

Mr. Mario Sergio: Okay.

The Chair (Mr. Peter Tabuns): Fair enough. We'll go back to the main motion moved by Mr. Hillier. Is there any further debate? Are the members ready to vote? I assume you are.

Shall the motion carry? All those in favour, please raise your hands. All those opposed? Carried.

Mr. Hillier, motion number 2. And please, "I move…"

Mr. Randy Hillier: Yes, I'll get it right this time.

The Chair (Mr. Peter Tabuns): Me too. Keep going.

Mr. Randy Hillier: I move that the Standing Committee on Regulations and Private Bills recommend to the Standing Committee on the Legislative Assembly that the standing orders of the House be amended such that any member is permitted during Introduction of Bills to table a motion requesting a review and debate upon the merits of any regulation filed with the registrar of regulations.

If this motion is passed, the government will ensure the motion is debated within that session of Parliament and allow up to two hours of debate.

The Chair (Mr. Peter Tabuns): Would you like to speak to the motion?

Mr. Randy Hillier: Sure. Thank you, Chair. This speaks to the other element of the royal commission inquiry into civil rights, of keeping our committees non-partisan and recognizing that the assembly is a partisan environment. Of course, we want to keep that partisanship out of our committees as much as possible.

But once again, we as legislators have no way to look at the merits of a regulation at the present time. There is no avenue. I know there are a number of new people on this committee, first-time members of the Legislative Assembly. I'll just give my perspective of being here for four and a half years.

When legislation is adopted by the House—this applies to all parties throughout time immemorial—it is indeed called enabling legislation, and the regulations that come forth afterward are created by the ministry that is empowered with that statute. We as individuals don't ever get to comment on or discuss or review that regulatory power except for this one committee that has a very prescribed look at regulations and only those that are brought forward from counsel. So there's no means or mechanism to actually see or understand if there is merit to or unintended consequences from that regulation.

I'll say this: We're in a very unique time in this Parliament. We are in a minority Parliament. That is the exception, not the rule, in Ontario. All majority Parliaments move in a certain direction, and again, it doesn't matter what party we're talking about. All majority Parliaments move in a direction that minimizes the role of individual members of the Legislature through time. Minority Parliaments are that one opportunity—so seldom do we get it—that allows private members to move that pendulum back a little bit and be empowered to be significant representatives of their constituents.

That is my rationale behind this motion: to actually give individual members an opportunity to bring forth and discuss the merits of a regulation in the House.

Of course, we would want to put on time frames and constraints as to how many regulations would be able to be entered into the House. I don't want to presuppose that I know best, but I have looked at other vehicles to bring forward debate on the merit of regulations. I've looked at the Committee of the Whole House. I've looked at ballot day items, such as we do at private members' business. I do believe that unfettered access into the assembly, for a private member to bring a regulation forward—of course, before the debate could begin, there would have to be approval, a majority vote of members in the House, to see if indeed there is justification to debate that merit. But I do believe, in the long run, it will be far better for this institution if members have a vehicle to represent their constituents on regulations. I do believe, in the end, it will provide much better government for our constituents and a much more empowered role for members of the Legislative Assembly.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hillier. Is there further debate? No? Okay.

There being none, shall the motion carry? Those in favour, please raise your hand. The motion is carried.

Mr. Sergio and the clerk have had an opportunity to refine his motion, and we're waiting for copies to come, if you'll just stand by for a few minutes. Thank you.

Mr. Mario Sergio: *[Inaudible]* both motions, Mr. Chair. They were very similar.

The Chair (Mr. Peter Tabuns): We'll just circulate—I think yours are straightforward.

Mr. Randy Hillier: Chair, may I ask if anybody from the Clerk's office would know *[inaudible]*—in the subcommittee report, we asked about streaming for the Bill 16 hearings.

The Clerk of the Committee (Ms. Tamara Pomanski): Yes, it's actually possible, that they're going to be live-streamed. I was actually going to, in terms of—did you want all three meetings live-streamed or just the public hearings?

Mr. Randy Hillier: Public hearings and the clause-by-clause.

The Clerk of the Committee (Ms. Tamara Pomanski): Public hearings and clause-by-clause? It will be arranged with broadcast, yes.

Mr. Randy Hillier: Thank you very much.

The Clerk of the Committee (Ms. Tamara Pomanski): Just as a note, though, we're going to have to be in room 151, in our normal room, to do the live-streaming for that. They have all the technology in that room.

Mr. Randy Hillier: Nobody has talked about kicking us out of our room?

The Clerk of the Committee (Ms. Tamara Pomanski): Not yet.

The Chair (Mr. Peter Tabuns): You never know when the rumour will start.

Mr. Randy Hillier: Oh, absolutely. Absolutely.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Sergio, if you would read into the record, "I move—"

Mr. Mario Sergio: Yes, I'm ready. I move that the committee write to the Attorney General and ask for his opinion on these proposed changes and that these opinions be forwarded to the Legislative Assembly committee for their consideration.

The Chair (Mr. Peter Tabuns): Thank you. Any further debate? You seem an agreeable group.

All those in favour of that motion? It is carried.

Our business is concluded.

We stand adjourned.

The committee adjourned at 1001.

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of Ontario

First Session, 40th Parliament

Assemblée législative
de l'Ontario

Première session, 40e législature

Official Report of Debates (Hansard)

Wednesday 18 April 2012

Journal des débats (Hansard)

Mercredi 18 avril 2012

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Peter Tabuns
Clerk: Tamara Pomanski

Président : Peter Tabuns
Greffière : Tamara Pomanski

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 18 April 2012

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 18 avril 2012

The committee met at 0816 in committee room 1.

PUBLIC SAFETY RELATED TO DOGS STATUTE LAW AMENDMENT ACT, 2012

LOI DE 2012 MODIFIANT DES LOIS EN CE QUI A TRAIT À LA SÉCURITÉ PUBLIQUE LIÉE AUX CHIENS

Consideration of the following bill:

Bill 16, An Act to amend the Animals for Research Act and the Dog Owners' Liability Act with respect to pit bulls / Projet de loi 16, Loi modifiant la Loi sur les animaux destinés à la recherche et la Loi sur la responsabilité des propriétaires de chiens en ce qui a trait aux pit-bulls.

The Chair (Mr. Peter Tabuns): Good morning, everyone. The Standing Committee on Regulations and Private Bills will now come to order.

We're here for public hearings on Bill 16, An Act to amend the Animals for Research Act and the Dog Owners' Liability Act with respect to pit bulls.

Please note there are written submissions received on this bill and they're on your desks.

MR. MICHAEL HOWIE

The Chair (Mr. Peter Tabuns): I'll now call on Michael Howie, who will speak to us via teleconference. Mr. Howie, you have 10 minutes for your presentation, and up to five minutes has been allotted for questions from committee members.

Could you please state your name for Hansard, and you may begin.

Mr. Michael Howie: My name is Michael Howie. I'm a reporter with North Oakville Today newspaper.

Members of the committee, I am not an expert in canine behaviour, genetics or breed. I am a journalist and it is regarding the media's role in the initiating of the breed-specific legislation that I will be speaking.

In 2004, Mr. Michael Bryant stood up in the Legislature and read excerpts from news articles. He used these to portray what appeared to be an alarming trend and voiced a call for action. While I believe Mr. Bryant had his constituents' best interests at heart, as most politicians do, the very basis of his arguments had a major flaw: the reliability of the media.

Reporters are skilled storytellers. They find facts, research issues and consult experts. They present information in a complete package and provide readers a non-biased view of events. Unfortunately, it isn't always that simple.

In a 24-hour news cycle, there isn't always time for experts. Background information can be scarce and the glory of a front-page headline can overtake a journalist's moral obligations. Either intentionally or unintentionally, they use fear to generate interest and bring attention to a story.

Dr. Shelley Alexander at the University of Calgary conducted a media content analysis study and showed just how biased journalists can be when they write about animals. Utilizing over 200 articles on the subject of urban coyotes, Dr. Alexander grouped the descriptors used when humans killed coyotes and when coyotes killed pets. When humans killed coyotes, the common descriptors were "killed," "euthanized," "put down," and "removed"—very simple and fact-based terms. When coyotes killed pets, the common descriptors were "brazen," "brutal," "marauding" and "an unreported plague." These descriptions do not provide more insights; they provide fear, and journalists will grab on to fear and push it. We aren't talking about coyotes here, but that bias remains and is quite powerful almost any time an animal is discussed in the news.

In my own research, a psychotherapist explained why the media can have such a profound impact on public opinion. The exercise of visualization is so powerful that simply reading an article using highly descriptive wording can trigger a chemical fear reaction in a reader's brain. They become afraid too, as though they witnessed or were a part of the event. In the instances of so-called pit bulls, it was quite apparent that journalists were utilizing this fear and not spending time researching, fact-checking or interviewing experts.

As you will hear from other delegates, "pit bull" is not an actual breed. I've seen Labrador retrievers called pit bulls at dog parks. I've seen bulldogs and Boston terriers called pit bulls on the street. The public—and journalists, it would seem—do not know what a pit bull looks like.

Most of the alleged attack stories were based entirely on the accounts of rightfully frightened individuals. While these interviews certainly have a place in an article, any police officer or litigator would tell you that

eyewitness testimony is the least reliable form of evidence.

Perhaps most worrying is that one of the key questions was never asked: Why? Rarely was the cause of an alleged attack explored. There are thousands of animal behaviour experts who can analyze and interpret data from an event to provide understanding as to why an alleged attack took place. Even the severity of a bite was glossed over, though there are multiple acceptable scales to measure the severity of a bite or aggression.

It is clear that the news items which led to the creation of this public policy were flawed in their structure and truthfulness. The facts were skewed and sometimes skipped, and as a result, policy was created that ignored facts and the truth. The single most powerful thing any of us can do is tell the truth, and frankly, the truth is this policy was built on an unreliable, sensationalized foundation.

Thank you for taking the time to hear my thoughts on this.

The Chair (Mr. Peter Tabuns): Thank you, sir. The round of questions will start with the official opposition. Mr. Hillier.

Mr. Randy Hillier: Thank you very much, Mr. Howie. That was very insightful. I have to congratulate you for taking the time and presenting to the committee today. I do believe you've hit on a number of very key and important elements in this whole pit bull saga, and that is that it was driven by hysteria within the media and without facts, truth and objective analysis of what actually was going on.

You followed this, obviously, back in 2004 and 2005. I'm not sure if you've followed it with Bill 16, in our debates, but maybe if you might share with us—I view that we still saw an element of that hysteria and the absence of fact or objective analysis during some of the debates when it was referred to as these horrific, murderous, marauding animals that would tear off the genitalia of people. I don't know if you watched that debate, and if you have, if you could maybe expand on it a little bit.

Mr. Michael Howie: I think anyone who is in the business of communicating will default to visuals. As I said, visualization is an exceptionally powerful tool, and I believe that in debate in the Legislature in 2004-05 and more recently, as well as the media, that was seized upon. It was pushing a purpose, which was, "We are afraid, and we have to do something to protect ourselves against this perceived threat."

The same thing occurs any time there's a shark attack. You start reading about how horrifically mangled people are. Last summer, there was a great example of that with a grizzly bear attack. I can provide those headlines for you; they're actually highly amusing. But I do believe that the hysteria, as you called it, did lend itself to pushing this through and has again come up when people talk about it. It is an innate, instinctual fear that is played upon.

Mr. Randy Hillier: I assume that you've been a journalist for some time now, Mr. Howie. I'm just wondering from your own experience and observations—we can obviously see that the media does drive public policy in a number of cases. From your view and from your experience, do you believe that most journalists and reporters understand what their participation is in the system and how their participation also drives public policy? Or are they not seeing the consequences and just thinking that it is a story that they're writing, without any public policy consequences?

Mr. Michael Howie: I believe that most journalists are fully aware of what they're doing. However, as I mentioned in my presentation, the glory of a headline can overwhelm that sense of moral obligation. When you've got a great story coming up, be it something about the pit bulls, be it a serial killer, be it a political rally, if you've got a headline, it's blood lust almost. It's exciting. It drives you to do a better story, and unfortunately that drive overshadows the importance of our role in this society.

Mr. Randy Hillier: Thank you very much, Mr. Howie. Again, I have to commend you for taking the time out and providing those insightful comments to the committee today. Thank you.

The Chair (Mr. Peter Tabuns): Mr. Howie, thank you. We now have to go on to make the connection with our next presenter.

Mr. Michael Howie: Thank you very much.

Mr. Mario Sergio: Mr. Chairman, what is the time allotted for questioning?

The Chair (Mr. Peter Tabuns): Five minutes per party, and we're rotating.

Mr. Michael Coteau: So the next speaker from the NDP will be asking, then the third speaker—

The Chair (Mr. Peter Tabuns): Yes, correct.

Mr. Michael Coteau: Okay, thank you.

The Chair (Mr. Peter Tabuns): Just to note, Rebecca Ledger for 8:45 a.m. has cancelled. We're trying to see if we can move up the 9 a.m. speaker. If we can't, we'll recess briefly. Cheri?

Ms. Cheri DiNovo: Yes, thank you, Mr. Speaker. Just a quick question about process. Usually in the other committees, for hearings the presenter has a 15-minute span and whatever time they don't use is divided equally among the parties. Is there a particular reason that's not operative here?

The Chair (Mr. Peter Tabuns): We agreed earlier that we'd allocate 15 minutes and that each party would rotate the opportunity to question presenters, rather than splitting up the five minutes.

Mr. Randy Hillier: If there is time available or left over, I certainly think it would be—or is that going to throw a monkey wrench into the program, if there's time left over and it goes to another party?

The Chair (Mr. Peter Tabuns): If we have time, we have time. Are people agreed?

Mr. Mario Sergio: No problem.

The Chair (Mr. Peter Tabuns): Great. Do we have our next person?

CITY OF CALGARY

The Chair (Mr. Peter Tabuns): I'll now call on Bill Bruce to speak. He's also on teleconference. Mr. Bruce, you have 10 minutes for your presentation and up to five minutes that have been allocated for questions from committee members. If you could state your name for Hansard and then begin.

Technology has never been a simple thing.

Mr. Lorenzo Berardinetti: It's getting worse.

Mr. Mario Sergio: It's getting better.

The Chair (Mr. Peter Tabuns): We're hopeful that it will.

Mr. Bill Bruce: Good morning.

The Chair (Mr. Peter Tabuns): Good morning, Mr. Bruce.

Mr. Bill Bruce: How are you this morning?

The Chair (Mr. Peter Tabuns): Mr. Bruce?

Mr. Bill Bruce: Yes?

The Chair (Mr. Peter Tabuns): You have 10 minutes for your presentation and then up to five minutes have been allocated for questions from committee members. Could you please state your name for Hansard and then you can begin.

Mr. Bill Bruce: Sure. My name is Bill Bruce. I am the director of animal services for the city of Calgary.

Thank you very much for this opportunity to comment on and present to you on two things I'm very passionate about: community safety and dogs. Also, I appreciate you accommodating a teleconference.

I'll open by saying that canine aggression is not acceptable in any community, regardless of the breed involved. Speaking of Calgary's experience with dog aggression, we have developed a program that does not rely on BSL to reduce canine aggressive incidents, yet we have managed to reduce those incidents by 78%. The program has been based on current scientific understandings of canine behaviour and it starts with a basic understanding that all dogs can bite.

We've studied that behaviour extensively in Calgary over the past 20 years. We currently have a population of 1.1 million people and 125,000 dogs, and last year we had 127 bites. That's about 0.1% of dogs that actually got involved in an incident, and very few of those incidents turned out to be serious injuries.

0830

It started with trying to obtain a deeper understanding of what triggers dogs to bite, and there are several reasons why they would do that. It could be anything from fear—a dog that's lost, alone, frightened; it's a defensive thing that dogs do—to actually people that have trained their dogs to bite or to attack people. Of course, we know that's not an acceptable social behaviour.

When we studied bites we looked at well-known behaviourist Ian Dunbar, who describes aggression in six levels, and that plays remarkably strongly into what we need to do and understand if we want to stop canine aggression.

Level one is a simple chase threat; the dog has not made any contact with the person or other animal, but it's exhibiting a threatening behaviour. That's the first move they'll do.

After that, if that's not corrected, it could escalate to a second level, where they actually make contact but do not bite. It's called bite inhibition. The dog is still trying to use the teeth as a tool to communicate with.

The next level is, they actually puncture. That's where the bite actually starts. Those other two sections are very correctable.

The fifth level, of course, is a fatal attack. Thank God we have never had one in Calgary, but they can happen.

What we have learned, though, is that that early level of canine aggression—it can be as simple as a dog blocking the door to the bathroom, if that's where he's getting his water from; he's protecting it. Those are things that need to be properly identified at early stages and then properly addressed with training and behaviour assessments and behaviour modification.

One of the things we had to do to do this successfully was shift our thinking away from a standard model of animal control to more of a responsible pet owner model. What that means is moving away from enforcing only after something has happened and looking more to working with the community about setting what the acceptable standards of animal behaviour in our community are going to be, and then setting out to teach people about what that means; what a responsible pet owner is; what is required; understanding the canine aggression model; early intervention when you see that first sign of any kind of unacceptable behaviour; teaching safety around dogs for kids especially and for service providers like postal workers in the community; and then really coming back to that owner responsibility, understanding that it is the owner that is 100% responsible for what their dog does.

The last step, of course, in that continuum of responsibility is significant consequences. While we don't have BSL law in Alberta or Calgary, we do have probably the strictest regulation around aggressive dogs, regardless of breed.

As we went down this path of study, we reviewed many different strategies around the world using different legislation to try to control dangerous dogs. What we did learn is that when you do ban a breed, of course, the bites go down for that specific breed; that's no surprise. If there are fewer of them, there are fewer opportunities. But what we found is that bites tend to go up dramatically in other breeds. That took us to the understanding that any dog, again, can bite, and it's coming back on the owner to make that determination if a dog is safe or not.

At the end of the day, when we looked at many of them we saw there was no change in the overall number of bites in the community, just the dogs that were doing the biting. Often, we would see an increase in overall bites, which is quite interesting and strange.

Going back to our original goal, which is community safety, that was not going to improve our community safety levels. A couple of examples you are probably

very familiar with are Italy and the Netherlands, who have withdrawn theirs after years of scientific study finding it wasn't working. Great Britain, of course, is in the process right now of switching from a specific legislation to an RPO model.

What we've been able to do with all this research and work, relying on many scientific organizations—the National Canine Research Council has incredibly effective research. It documents an effective program to reduce incidents of canine aggression using programs supported by the communities, sustainable programs that effectively, in essence, modify human behaviour around dogs. What we did learn is that there are really fundamentally two ways to get an aggressive dog, and that is to specifically train it for that purpose, or to be what we call an unconscious incompetent: The owner got a dog, didn't see the signs, didn't do the training, didn't manage the dog properly in the community and it became aggressive.

What I've given you today—and I wanted to leave some time for questions, so I'm trying to keep under seven minutes for the talk. This is just a very high-level brief on a different yet effective way to address an issue—a method that is highly supported by the community and receives extremely high voluntary compliance with the community. We don't have to do a lot of enforcement, but when we do, it's serious. We have embedded programs where we actually have the ability to order a dog owner with a dog that is going the wrong way—he can actually be ordered to take training from a certified trainer to correct the problems we see—usually, it's a change in the owner's behaviour with the dog and the owner's control over the dog—and reduce that dog from a high risk or a dog going to risk to a safe dog in the community. We can order that and then reassess the dog and see if the dog's behaviour has changed. Also, to alert the owner as to what their responsibilities are: shifting all the responsibility on to the owner.

What I'd hoped to do today was to encourage you to explore deeper some of the proven scientific solutions to prevent and reduce canine-aggressive situations and increase your community safety around dogs.

That's my very high-level overview in my seven minutes. I do, as I said, want to leave time for questions. This was really just a very, very high-level overview of the programs.

The Chair (Mr. Peter Tabuns): Thank you. This round of questioning will start with the third party. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you so much, Mr. Bruce. You've really created the gold standard for Canada and the way we should be approaching this problem.

I just wanted to highlight a couple of things that you said: number one, that breed-specific legislation has never worked in any jurisdiction it has been tried in; that your approach and others' approaches like yours around the world have worked, and that is the preventive model, where you actually do some training in schools and do some training for pet owners about how to have a dog, and then you enforce, of course; and also what we've heard from trainers—people as famous as Cesar Millan, who has pointed out, using pit bulls as his training dogs, that it's not the breed; it's the owner. So I want to thank you for that.

It's too bad we have such a short amount of time, because I think what's really telling about the Calgary model, as it has come to be known in Canada, is the way you've gone about it and the specifics. You've given a very general overview, but hopefully, if you could maybe submit to this committee some of the things that you've done—for example, I know you run programs in schools, that kind of thing, to teach children about how to be around dogs. You've done other things like that. I would love to see the specifics, if you could give them to us.

The only study that we looked at here in Toronto—the Toronto Humane Society did a five-year study and discovered, of course, that breed-specific legislation doesn't work here either, like everywhere else in the world. You mentioned that Italy had moved away from it; Sweden, I know—there are a number of jurisdictions in the States, all of whom have ditched it because it was ineffective.

Perhaps you could answer one question, though, and that is: If you could name maybe three things that you have done that have made a significant difference in the number of dog bites, that would be great.

Mr. Bill Bruce: Certainly. Ironically, the education, especially with the children and service providers, on how to prevent being bitten by a dog should they come across a stray is incredibly effective. One thing we did was, we banned the tethering of dogs in public places—people who have a habit of going to a restaurant and tying their dog up outside while they go and have breakfast. When we did that, we saw an incredible drop—those were fear bites. We saw a big drop there—so understanding canine behaviour and why a dog tied up would do that.

I think the last, most effective thing we did was the legislated system we set up to deal with people before their dog bit—so, when it shows a chase threat, we're there, we investigate it, we do an assessment; we can even order the dog into training and work with that owner to get that dog corrected. Those are probably three of the key things.

A lot of it comes back to really embedding in our community the model of responsible pet ownership, so, broader education, understanding that if we want to change canine behaviour, we have to change human behaviour with our dogs. The most effective way to change human behaviour is through education. We actually have six education programs that are part of our school curriculum that we deliver at no charge to the schools, and we have board-certified teachers on staff to do that kind of work.

One other thing that I did not mention that may be of interest to you is: This whole program is not funded by tax dollars. The entire animal program—animal services—is funded by generated revenue, primarily from licensing. So none of this is involving any cost to the taxpayer at large.

0840

Ms. Cheri DiNovo: Thank you very much.

Mr. Bill Bruce: Thank you.

The Chair (Mr. Peter Tabuns): Now, we have some time left. Thank you, Ms. DiNovo. Are members of the government interested in putting forward questions? Mr. Berardinetti?

Mr. Lorenzo Berardinetti: Thank you, Mr. Chair. Good morning, Mr. Bruce. My name is Lorenzo Berardinetti.

Mr. Bill Bruce: Good morning, sir.

Mr. Lorenzo Berardinetti: Good morning. I just have a quick question. Do you have in place what is called the vicious animal licensing policy?

Mr. Bill Bruce: Yes, we do. If an animal has been declared vicious by the courts, we have a licensing program that requires a much higher payment, far more significant consequences and conditions that could be placed on the animal with regard to confinement, control. We can also, through that program, order the dog into training.

Mr. Lorenzo Berardinetti: So if someone has a pet and the owner of the dog has it declared a vicious animal—do you think Ontario should do the same thing and obtain what's basically a special vicious-animal licence?

Mr. Bill Bruce: Absolutely. If a dog has displayed a level of aggression that's unacceptable, it's about bringing it to their attention and increasing the consequences. So a dog licence that might have normally a cost of $36 is now a $250-per-year licence. The property must be posted. The property must be secure. The dog will be required to be kept in a six-sided run that it can't escape from. Very significant—if it's out, it must be on a short leash, muzzled. We can order all those things on a specific case where the dog has started to show inappropriate signs. The dog must be leashed and in the control of a person over 18.

So we have a lot of conditions we can place on a specific dog that's been identified as a threat to the community.

The Chair (Mr. Peter Tabuns): Mr. Bruce, I have to interrupt you and Mr. Berardinetti for a moment. We've used up our allocated five minutes. Our next presenter is not yet here. If the committee is interested in having a few more questions, I'd be happy to go forward with that. Otherwise, we'll recess until 9 o'clock.

It looks like there are a lot of nodding heads. I will—

Mr. Mario Sergio: Mr. Chair, unless some other presenters are here that are willing to move ahead—

The Chair (Mr. Peter Tabuns): Well, we have part—

Mr. Mario Sergio: I do understand.

The Chair (Mr. Peter Tabuns): Yeah. Go ahead, Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I had one question, if Mr. Bruce is still on the line. I don't know.

Mr. Bill Bruce: Yes, I am, sir.

Mr. Lorenzo Berardinetti: Okay. Thank you. Going back to the vicious-animal licensing policy, just so I understand correctly, who's the person declaring the dog a vicious animal? Is it your department that does that?

Mr. Bill Bruce: No. What we do is we take it to court and we have a hearing where we present the evidence on why we believe the dog should be designated. The dog owner has a right of defence and the court will make the decision based on the evidence. We have about a 99% success rate.

I should mention, too, at that time the court also has the ability, under our legislation, to order that dog destroyed if the belief is that the dog is not going to be properly controlled and will continue to be a threat. Or the judge could even take the dog away, destroy it—ordered it destroyed—and order the individual that they may not get another dog for a period of time.

Mr. Lorenzo Berardinetti: Then just following that further, let's say someone has a pit bull and treats the pit bull poorly, but your department never sees this and never observes this happening—let's say the pit bull is kept inside for most of the time or in a backyard that's basically enclosed, but one day that owner takes the dog out for a walk and the dog bites someone. How do you prevent that from happening?

Mr. Bill Bruce: Well, that's where the education comes in and that's why we may, depending on the dog—the dog, before we go to court, gets a professional assessment from my staff behaviourist, who is also a peace officer.

Part of the behaviour program is learning what are the triggers that make the dog do what it does, and every dog has triggers that will set it off and things that don't set it off. So we work with the owner on that consultation, if the court decides to allow him to keep the dog, and what he's going to have to do to prevent that.

Of course, typical of that, we would be ordering—if we thought the dog was very reactive to other dogs or certain situations, we might order a harness situation, which is more secure than a standard leash. We might order a muzzle. We put conditions on that respond to what the dog's triggers are and what he's reactive to so he could maintain that control. Now, of course, if you do have another offence, your fines will automatically go up 10 times.

Mr. Lorenzo Berardinetti: I remember in my years, some owners drop out of school in grade 9 or grade 10 and go on and do other things and are very successful. But let's say someone drops out of school in grade 9, doesn't attend many classes—I know this is hypothetical, and I appreciate that and I hope you do as well. But let's say someone doesn't attend school after grade 9 or earlier and doesn't receive the education but still owns a pit bull. Again, if that pit bull goes out and bites someone, doesn't it seem—and I'm asking this in a very friendly manner. If that hypothetical situation occurs and the dog bites someone, isn't it—and this is in a friendly way again—too late to deal with the behaviour of the dog or even the animal licensing policy?

Mr. Bill Bruce: Not necessarily. Generally, I believe that very few dogs start off biting. It starts off with much lesser behaviours. Our goal is to identify those early and work with the owner on education to correct those behaviours before they will escalate. So no dog wakes up one morning and decides it will start biting today. It starts with lesser behaviours, and we find that there's really only, as I said, two ways to get an aggressive dog. Very few people are setting out to do this deliberately.

So by working with the owner in an educational way—in our educational programs, we really target: From ECS and kindergarten to grade 6 is where we have to start putting this information before them. Then once we're aware of the dog in the community, we can work more directly with them. It has been extremely effective.

Mr. Lorenzo Berardinetti: Have you ever had to put down a dog, let's say a pit bull, as a result of a bite?

Mr. Bill Bruce: Absolutely. I have two in custody right now that are going to be put down as soon as I'm before the courts in a couple of weeks. These were dogs that were being used for protection around some illegal activity. A person came on the property and was bitten. The dogs were immediately seized, held, and we'll take them to court. We'll be asking, in this case, for—

The Chair (Mr. Peter Tabuns): Mr. Berardinetti, I'm going to turn it over to Mr. Hillier, because it looks like we have another presenter just about ready to come in.

Mr. Hillier?

Mr. Randy Hillier: Mr. Bruce, thank you very much. I'll make this very quick. I just want to reiterate some of the things that I've heard from you.

The city of Calgary had a 78% reduction in dog bites, down from 127, where I believe in Toronto we're at about 5,000 dog bites—

Mr. Bill Bruce: That's correct.

Mr. Randy Hillier: —and that when bites go down in one breed, they go up in others.

Unlike the question from the government side, who were talking about hypotheticals, I think the proof is in the pudding about how to prevent dog bites. The city of Calgary has demonstrated how you prevent, it in a fashion, with what you have done out there.

But I will ask you this one question. From your presentation, it sounded very much to me that the best level or order of government to deal with aggressive dogs in a community is not the provincial level of government, and that the municipality is probably the best-suited government to deal with aggressive dogs. What are your thoughts on that, Mr. Bruce?

Mr. Bill Bruce: Actually, I'm glad you raised that. Yes, every community has its own characteristics and features and individualities, so it can be different from community to community, the level of control you need to put in there.

I do agree it's well legislated. We operate from a Municipal Government Act of Alberta, which just probably puts on to a municipality the ability to regulate both wild and domestic animals. At the provincial level, we deal with animal cruelty and we deal with a Dangerous Dogs Act.

Mr. Randy Hillier: Mr. Bruce, can I ask you just one more question? How many vicious-dog licences are issued in Calgary each year?

Mr. Bill Bruce: I think last year I issued eight.

Mr. Randy Hillier: Eight. Thank you very much.

The Chair (Mr. Peter Tabuns): Mr. Bruce, thank you very much.

Mr. Bill Bruce: Thank you very much.

ONTARIO VETERINARY MEDICAL ASSOCIATION

The Chair (Mr. Peter Tabuns): I'll now call on the Ontario Veterinary Medical Association to come forward: Dr. Scott, Doug Raven, John Stevens. Gentlemen, if you could come forward to the seats there. You have up to 10 minutes for your presentation, and up to five minutes has been allocated for questions from committee members. Could you please state your names for Hansard, and then you may begin.

0850

Dr. Dale Scott: Dr. Dale Scott.

Mr. Doug Raven: Doug Raven.

Dr. Dale Scott: Good morning, honourable members of the committee. My name is Dr. Dale Scott, with the Ontario Veterinary Medical Association. With me is Mr. Doug Raven, CEO of the OVMA. Thank you very much again for the opportunity speak to this most important issue.

Veterinarians are trained to take a science-based approach to any issue, including aggressive behaviour by dogs towards humans or other animals. As such, OVMA has conducted a thorough review of the available research on dog bites and the use of breed-based bans to curb dog attacks. Based on that review, we are here today with three clear messages:

First, breed-specific dog bans are not an effective way to deal with dangerous dogs in Ontario, specifically because research shows that numerous breeds are reported each year in attack and fatality reports.

Second, the current legislation has resulted in the unnecessary euthanasia of over 1,000 dogs and puppies in Ontario. Many of these had no history of violence against people or other animals.

Third, research clearly shows that a more effective approach to dealing with dangerous dogs is improving bite prevention education and implementing non-breed-specific dangerous dog laws, enacted to place the primary responsibility for a dog's behaviour on the owner, regardless of the dog's breed; in particular, targeting irresponsible dog owners.

Let me now address these messages in turn.

First, why are breed-based bans ineffective? It's because they are based on two simple but incorrect assumptions: (1) that only certain breeds of dogs are dangerous, and (2) that all dogs that belong to those breeds are

dangerous. Data available when this was introduced in 2005 does not support either of these two assumptions.

A 1996 study by James Bandow, the then general manager of animal control services for the city of Toronto, found that dog bites in the city were reported for more than 20 breeds and crossbreeds. Pit bull terriers accounted for only 4% of the reported bites and ranked ninth on the list of identified breeds in terms of bites.

At the time that Kitchener, Ontario banned pit bull-type dogs in 1997, they ranked eighth in terms of the breeds for which dog attacks had been reported for the preceding year. In Essex county, where Windsor banned pit bull-type dogs, statistics indicate that the five worst offenders in terms of dog bites were German shepherds, Labrador retrievers, huskies, cocker spaniels and Jack Russells.

In Winnipeg, there have been bites by 87 identified breeds and 94 crossbreeds since 1989. Since pit bulls were banned in 1990, there have been over 3,000 dog bites in that city. Clearly, banning pit bulls did not prevent the vast majority of dog attacks.

The Toronto Humane Society issued a report recently on dog bites in the province of Ontario, concluding that since the ban was put in place, there has been no impact on the number of dog bites in the province. Between 2005 and 2010, the number of dog bites in Ontario has remained consistent with the number of bites from before the ban was enacted. According to the Toronto Humane Society, "The new law has not worked. It has not reduced the number of dog bites and increased public safety. All it does is punish one breed of dog."

An argument is sometimes made that, while all dogs bite, only a few breeds cause serious injury when they attack. Again, this hypothesis does not withstand scrutiny. A study by the Canadian Hospitals Injury Reporting and Prevention Program examined the dog breeds involved in attacks that were serious enough that the victim sought medical attention at one of the eight reporting hospitals. The study revealed that 50 different purebreds and 33 types of crossbreeds had been involved in the attacks—many of those show more attacks than pit bulls.

What about the most serious of attacks, those resulting in the death of a person attacked? Over 17 years, between 1990-2007, there were 28 reported human fatalities in Canada due to dog attacks. In one of those incidents, a pit bull was blamed, and there is statistically no relevant change in the number of fatalities after the breed ban was implemented.

What about the second assumption, that all pit bulls are dangerous? Trying to determine what percentage of pit bulls are involved in attacks is difficult, if not impossible. As it is generally acknowledged that a large percentage of dogs are never licensed, it is impossible to know how many dogs there are of each breed in a municipality.

However, in the 1996 city of Toronto study referred to earlier, the pit bulls involved in biting incidents accounted for only 1% of the pit bulls licensed in the city at the time. For comparison purposes, 5% of Labs and 6% of German shepherds licensed within the city had been involved in biting incidents over the same period. Clearly, the assumption that all pit bulls are dangerous is not a fact.

To summarize, there is no scientific data on which to base the conclusion that a breed-based ban is the answer to dealing effectively with the dangerous dog issue. Although such bans might comfort individuals who have had unpleasant experiences with particular breeds or who have heard of attacks by specific dog breeds in the media, the bans do not effectively regulate dogs that should be considered dangerous in general, regardless of their breed; nor does it adequately regulate the responsibility of their owners.

To my second main point, one could take the view that while a breed ban might not be effective, it won't harm either. However, such views ignore the fact that many serious problems resulted from the passage of this legislation. I'd like to quickly mention three such problems that need to be considered:

First, as predicted by many experts in 2005, difficulties associated with breed identification have made a breed-based ban very difficult, if not impossible, to enforce. There are many breeds and crossbreeds that resemble the banned breeds, and municipal law enforcement officers do not generally have the training to determine if a dog is in fact a banned breed. Even if they have that training, they lack the scientific means for determining a dog's breed that can withstand the rigours of a legal challenge.

Second, municipalities have borne the cost of enforcing the ban and of housing, euthanizing and disposing of banned dogs. Provincial taxpayers have footed the bill for the court costs associated with the ban. At a time when all levels of government are struggling to fund even essential services, surely this is money that would be better spent elsewhere.

Finally, and most importantly, the legislation has resulted in the unnecessary euthanasia of over 1,000 dogs across Ontario. Many of these are dogs that had no history of violence against people or other animals. They simply looked a certain way, and that appearance was unfortunately enough to earn them a death sentence if they lived in Ontario.

And my third and final key message: There is a better way. If Ontario removes the breed-specific ban, what could it do to address the dangerous dog issue? It must be noted that the province already took several commendable steps to address dangerous dogs as part of the non-breed-specific amendments to the Dog Owners' Liability Act passed in 2005. For example, the current legislation enables the courts to identify a dog that has behaved in a manner that poses a menace to the safety of a person or domestic animal and sets out that certain precautions be taken to protect the public from these dogs. However, there are several other actions that could also be taken.

First, the province could better regulate dog breeders to ensure that those who breed dogs are appropriately

qualified to do so and prevent those who have a history of rearing dangerous dogs from doing it in the future.

Second, the province could work with veterinarians, breeders and other interested parties to educate the public about pet selection and responsible pet ownership.

0900

By educating dog owners about how to choose a dog that's right for them, train the dog appropriately and recognize aggressive behaviour early on, most potential attacks can be prevented.

One study that comes to mind was conducted by animal behaviourist Dr. Stanley Coren. Hs study showed that dogs with basic obedience training were 89% less likely to be involved in a biting incident.

Finally, the province should increase the potential penalties available to the courts when a dog owner fails to act appropriately to safeguard the public from his or her dog.

The Chair (Mr. Peter Tabuns): Thank you, sir. Questions will now go to the government. Mr. Coteau.

Mr. Michael Coteau: Some jurisdictions that don't outright ban pit bulls or use similar definitions as currently contained in the Dog Owners' Liability Act to classify restricted or naturally aggressive dogs do require restrictions like muzzling or leashing in public or that the owners carry liability insurance. Do you support such an approach in Ontario?

Dr. Dale Scott: Yes, we do. For any dangerous dog, we would support all of those restrictions.

Mr. Michael Coteau: There was a document that was produced in 1993, an article from Dr. Clifford and Dr. Scott from the American Veterinary Medical Association, called Dos and Don'ts Concerning Vicious Dogs, and within that there were some strong points around pit bulls. They made a few specific points, and I'd just like to get some feedback from you around these statements: Pit bulls have a very high pain threshold; pit bulls will attack any part of the body and will not let go, no matter how much they are punished; pit bulls are unique as they don't show any threatening signs prior to an attack; as a group, pit bulls are unquestionably the most dangerous and unpredictable dogs out there; mace and other spray repellents don't effectively work against pit bulls; and finally, one of the stronger instincts of pit bulls is—stronger than most dogs—their instincts within them show very aggressive traits, unlike other dogs. Would you agree with those points from the American Veterinary Medical Association?

Dr. Dale Scott: I'm not aware of that study and its US statistics. But definitely we're talking about a dangerous dog—and that's exactly what the OVMA would want to be regulated in Ontario is what you're saying. In Ontario, the data doesn't substantiate that the pit bull accounts for the greatest number of attacks, whether fatalities or bites, in various communities. So we're onside exactly with what they're talking about as far as restricting dangerous dogs—and you're describing a dangerous dog—but to paint that all pit bulls are exactly what is described in that document is what we feel, in Ontario, isn't substantiated by the data.

Mr. Michael Coteau: There are obviously outliers in all different types of things in life, but just overall, not all pit bulls—would you say the majority of pit bulls would show these types of behaviours as listed?

Dr. Dale Scott: I don't think so, because it's how they're raised, the owners, the responsibility of the owners or the irresponsibility of the owners and how they have taken those dogs and trained them to act that way. That's what we're seeing in the media presentations: the pit bull fighting or dogfighting generally. That doesn't show a picture of the general population.

Mr. Michael Coteau: One of the claims is that they're unpredictable prior to attack. Is that a trait that you would agree with?

Dr. Dale Scott: Not necessarily on the whole breed. I think that's definitely a trait that—any dangerous dog trained to be that way would be unpredictable.

Mr. Michael Coteau: The dangerous dog plans that have been implemented in some jurisdictions do protect against a second attack. How do we protect against that first attack?

Dr. Dale Scott: I think, again, that is education. That is going through veterinarians and breeders and those that are interested in this issue and coming together with government and forming laws.

Also, the whole part of training a dog and training yourself, I think that is the biggest answer and opportunity we have to prevent dog bites, dog attacks and fatalities.

Mr. Michael Coteau: So you would agree that some type of—

The Chair (Mr. Peter Tabuns): Thank you.

Mr. Michael Coteau: Last question, sir.

The Chair (Mr. Peter Tabuns): I know, but we're out of time.

Thank you very much for your presentation.

Dr. Dale Scott: Thank you very much.

SUPPORT HERSHEY'S BILL

The Chair (Mr. Peter Tabuns): The last presenters, because others have run late, is the Support Hershey's Bill group, Frances Coughlin and Elizabeth Sullivan. Thank you.

You've been here this morning; you know you have up to 10 minutes to make your presentation, and then there will be five minutes of questions. If you could please state your names for Hansard and then begin.

Ms. Frances Coughlin: Frances Coughlin. I am a real estate broker and a founding member of the Support Hershey's Bill groups. Over many decades I have been a community volunteer for Variety-The Children's Charity, Church on the Queensway and the Variety Club telethon, and I captained the Lieutenant Governor's Games at Variety Village. I am a responsible and conscientious citizen.

I am also a dog owner and for almost two decades have shared my life with dogs that could easily be deemed substantially similar to banned breeds. My time

now is spent fighting the inequality I and thousands of others endure due to current legislation which private members' Bill 16 will correct.

Ontario has been home for generations. Both my grandfathers fought for Canada in World War I. In 1968, my maternal grandfather's dog Sam was the first canine inducted into the Purina Animal Hall of Fame.

Now however, current legislation has made going for a simple walk in the park with my dog a burden. All too often now I am shunned, ostracized and even yelled at for having the wonderful dog I do. Media has managed to label and profile most medium-sized, muscular, short-haired dogs as pit bulls and their owners as either criminals or thugs. Due to this profiling, I am now subjected to harassment, called unacceptable names and treated unequally.

Were I not to speak against current legislation which incorporates breed-specific legislation, hereafter referred to as BSL, I would be remiss in my responsibility to myself and the thousands of others who, because of BSL and the desire to abolish it, I am now acquainted with.

Hershey's support groups have organized numerous rallies at Queen's Park and for other dog owners who have had their innocent dogs taken, seized, sent out of province or killed. During our events, people line up to sign petitions and the support continues to grow.

Since 2005, I have spent numerous hours reviewing professional studies and, in spite of public safety being initially cited as the main reason for Ontario's breed ban, have found that they have not reduced incidents. I don't find a single place where BSL has been effective in enhancing public safety. My faith in mainstream media has been lost, as it has for those politicians who catered to media's propaganda, fear-mongering, sensationalism and hype.

Every credible expert organization and individual testified against breed-specific legislation during the first round of committee meetings. Many more places have since proved BSL a failure. In the United Kingdom and in most other places, including the much-touted Winnipeg, dog bites actually increased after BSL was instituted.

I came here to plead for common sense. It should not be a provincial offense for responsible citizens to own and raise good dogs. Neither should good citizens be targeted or live in fear of being harassed and penalized due to a pet's appearance.

Those who have attended our rallies have included virtually every sex, age, race, culture, creed, religion and profession, yet this is not reported in media. It appals me that many legislators have not acknowledged the consequences BSL has had on numerous Ontarians. Breed discrimination, in fact, created a culture of unfairness, inequality, intolerance and second-class citizenship.

0910

Now citizens are forced to defend themselves in court when no crime has occurred, if anyone subjectively assumes a family dog to be substantially similar to one of the banned breeds. Now, as then, Ontario needs to take irresponsible dog owners to task.

Hershey's Groups requests all citizens be equal under Ontario law. The passing and approval of Bill 16 will restore equality to all dog-owning citizens.

The Chair (Mr. Peter Tabuns): Thank you.

Ms. Liz Sullivan: Liz Sullivan. I have been a provincial chairperson for National Access Awareness Week; elected and served on the women's executive of Variety Club and the Singles Alive ministry of Queensway Cathedral. I am also a recipient of the CRA minister's award and the commemorative medal of Canada. As a vested and concerned Ontarian, I believe breed-specific legislation, hereafter referred to as BSL, has tarnished Canada's image, and this reflects poorly on the traditional inclusiveness of Ontario's communities, cities and towns.

Canadians with mixed breeds are no longer able to travel freely across Canada due to BSL. An example of travel restrictions due to BSL garnered much publicity when TV celebrity and renowned dog trainer Cesar Millan could not bring his dog Junior into Ontario for fear he would be seized and destroyed. Junior is not a dangerous dog, but he was and is a victim of canine profiling. We have received messages from people who left Ontario and who want to return home, but because of the look of the dog that they own and BSL, they remain alienated from their families. The most heartbreaking stories involve our military, who after putting their lives on the line for Canada are no longer welcome in Ontario due to the appearance of their canine companion.

These are the harsh repercussions of BSL existing in Ontario, and it is a sad state of affairs.

Hershey's Groups includes the cause "Ban the Pit Bull Ban," which is closing in on 97,000 supporters. The "Support Hershey's Bill" Facebook site now borders on 8,000 supporters, showing many Ontario dog owners feel persecuted. And to demonstrate how offensive Ontario citizens find the current ban, one website we initially founded has sent over 209,000 documented emails to Queen's Park, petitioning for BSL to be removed.

The Hershey's Groups website, www.supporthersheysbill.com, is designed to dispel myths and educate. We ask committee members to visit Hershey's site, look into the faces of those in attendance, and view photos and videos of the protests, special events and rallies that have occurred throughout Ontario. Hundreds of average citizens have attended these events, and I believe that if it were geographically possible, one would see thousands of Ontario citizens in the photos and videos.

One menu tab, titled "Resources and Documentation," on the site includes the university study Panic Policy Making: Canine Breed Bans in Canada and the United States. This detailed study, starting from page 19 to page 24, addresses how media bias and influence affected the ban being passed in Ontario. We request committee members to review the study online as part of our presentation, or I can provide later a paper copy.

Again, thank you for allowing us to speak with you today in support of Hershey's bill, trusting that in the

future it will be known as Hershey's law with the passing of Bill 16.

The Chair (Mr. Peter Tabuns): Thank you for your presentation, and questions will go to the official opposition.

Mr. Randy Hillier: Thank you very much, Fran and Liz, for coming today and presenting to the committee.

I want to expand a little bit on the negative consequences a little bit later on, because I think that's one aspect of the present bill that is not well seen or understood by some members of the Legislature. But before I get there, I want to just reiterate that we often hear about, how do we prevent the first bite? We've already heard the evidence from Bill Bruce in Calgary that how you prevent the first bite is by preventing bites overall, by education, by responsible dog ownership. The numbers speak for themselves in Calgary, where they're down to 127 dog bites in a city of a million people—approaching a million people in Calgary.

In 2006 in the province of Ontario, the year of the BSL, we had 5,360 reported bites. The next year, a full year with the BSL, it went up to 5,492; the year after, 5,463. So there's been no change in the number of bites here in Ontario.

The government wants to know, how do we prevent the first bite? Prevent them overall. Take that Calgary model and implement a thoughtful, education process.

But I do want you to expand a little bit about the fear of walking your dog—a calm, friendly responsible dog—in a park and having somebody seize that dog from you for no apparent reason other than its physical appearance—not its physical action, its appearance. Because I do know that people have had their family pet seized and destroyed.

Ms. Frances Coughlin: We had one of our members send us a message. Her name is Courtney Elliot. She's walking along the street in Cambridge with her cane corso, and he's walking beside the carriage. He's tied to the carriage with her baby. A woman in a truck comes up and throws a brick at the dog, almost hits the baby: "How can you own a dog like that?" That dog is a family dog. It's raised with children. It's not dangerous.

These are some of the incidences that we experience as dog owners, as responsible dog owners, good dog owners, and we just ask that—you know, you can't fix stupid with laws. If there are problems with a particular owner who has raised a dangerous dog, take that owner to task, but leave the citizens alone who are responsible and have good dogs. That dog wasn't even a pit bull dog. Most of the people who yell and scream in the parks, "It's a pit bull. It's a pit bull"—they're not even one of those breeds.

Ms. Liz Sullivan: There have been many incidences where we've had phone calls, people—just heartbreaking. I got a call on a Friday night from a woman, her two children. She has three dogs and one of the construction workers left the back gate open. She always locks the back gate, so she didn't think to look. The next thing you know, the dogs are out running around the neighbourhood. She got two of them back and her words to me were, "The best dog of the group didn't come home." I spent hours with her on the phone.

The Chair (Mr. Peter Tabuns): You have one minute.

Ms. Liz Sullivan: I know when I go for a walk, putting—and a lot of people have met my dog. He's been on television a number of times, been in rallies a number of times, and he's a very gentle, extremely well behaved boy, and yet when I muzzle him, every time we go outside, it induces fear. It promotes the propaganda that media has done, making a certain type of dog dangerous.

Media has done this in the past to people of colour. This kind of profiling has to stop. It's canine profiling.

The Chair (Mr. Peter Tabuns): Thank you very much. I appreciate your presentation today.

CANADIAN KENNEL CLUB

The Chair (Mr. Peter Tabuns): We go on to the next presenter. I'll call the Canadian Kennel Club to come forward.

Good morning. You know you have 10 minutes for a presentation and then we'll have five minutes of questions. If you could state your name for Hansard, and then begin.

Mr. Sonny Allinson: Yes, Sonny Allinson.

First of all, good morning. Thank you to everyone who brought Bill 16 forward, supporting it. A tri-party private member's bill is a difficult one to anticipate the outcome of and hopefully, through the deliberations of this committee and weighing the reiterated input from a number of years ago, things will change, and we're very, very pleased to be here and speaking.

0920

From a small gathering in London, Ontario, dog fanciers in 1888 began the Canadian Kennel Club. It has grown to be recognized internationally as Canada's authority on purebred dogs and maintains one of the world's most accurate pedigree registries. As a not-for-profit organization with nearly 25,000 members across Canada and some 11,000 members here in Ontario, we continue, as we have since our inception 124 years ago, to look to the future.

The Canadian Kennel Club also consists of approximately 700 individually sanctioned local area dog clubs in Canada. These local area clubs hold approximately 2,500 events in localities across the country. CKC members voluntarily adhere to our code of ethics, and the Canadian Kennel Club member breeders voluntarily adhere to our breeder code of practice. These codes require the development of responsible ownership practices amongst all of the 75,000 new dog owners in Canada of purebred dogs each year.

The Canadian Kennel Club introduced the first national program for canine safety, and that is the Canine Good Neighbour program, approximately eight years ago. This was in response to an inquest at that time, prior

to the deliberations on the original Bill 152, I believe, commonly referred to as the pit bull ban.

The CKC-recognized clubs host training and education sessions across Canada for members and new dog owners. These are available for both purebred owners and non-purebred owners. The CKC-recognized clubs hold obedience events, reinforcing responsible ownership throughout the year.

All Canadian Kennel Club-registered purebred dogs are uniquely identified and the ownership is known. In Ontario currently, under the definition, two of our breeds are banned. There are 111 Staffordshire bull terriers in this province, and there are two American Staffordshire terriers. We know who those people are; we know where those dogs are.

All of the above is done voluntarily and it's unsupported by municipal, provincial or federal funding. The Canadian Kennel Club operates under the auspices of the federal Ministry of Agriculture and Agri-Food Canada and is an adherent to the federal Animal Pedigree Act.

Our mandate is to register and maintain pedigree records for 175 distinct breeds of purebred dogs that have completed a 19-step process in order to become recognized as such and to be included in our registry. We do it proudly and with accuracy for, as I said, approximately 175 individual breeds per year.

As well as maintaining one of the most accurate registries in the world, the CKC develops the rules and regulations for 19 different types of competitive events, such as conformation, obedience, field trials, water rescue, and agility, which is the most rapidly growing sport in the world.

We're the strongest canine voice in Canada and speak on behalf of every dog and every owner in this country. Diversity of interests keeps the organization unique, but it is the simple, common love we all share of the dog that brings our membership together and puts us before you today.

Whether you are a proud new puppy owner, whether you breed champion dogs, compete in events or simply look to your pet for companionship and comfort, you'll be touched by the issue of breed-specific legislation.

We have strong traditions of encouraging, guiding and advancing the interests of purebred dogs, responsible owners and reputable breeders. We have strong traditions of promoting the benefits which dogs can bring to our society, and we have a strong tradition of speaking out at times such as this, when we believe that legislation is not ultimately effective in achieving its purpose.

The issue at stake today is correcting, through the passing of private member's Bill 16, the misplaced ban on the generic broad term for a population of dogs—not a breed of dogs—commonly referred to as pit bulls in this province.

Legislation banning specific breeds, as the approach to improving public safety, is by no means a new concept, nor is it taken lightly by the Canadian Kennel Club and many, if not all, of the experts who have spoken to groups similar to this in the past and will be over the next two days of your meetings. In fact, it's usually the first idea suggested when the issue of vicious and/or dangerous dogs impacts any community. It has been described as a knee-jerk reaction. It's not the solution and it has not been the solution in Ontario. It's not an acceptable method for solving the problems of dangerous dogs. In fact, it creates additional problems for the owners of the dogs and the dogs themselves, which have never been nor ever will be vicious or dangerous. It creates problems for the individuals responsible for enforcement and in many other circumstances.

Our focus, and we hope yours, will be to understand that the problem must be dealt with, but that it is the individual dog and irresponsible owner that must be dealt with by making them accountable for their actions and the actions of their dogs. Make responsible owners accountable owners, but not through the banning of all dogs of a specific breed or breeds. The considered and collective opinion of the National Companion Animal Coalition, consisting of the Canadian Veterinary Medical Association, the Canadian Federation of Humane Societies, the Pet Industry Joint Advisory Council of Canada and ourselves, the Canadian Kennel Club, all support dangerous dog legislation and not breed-specific legislation.

BSL has been of concern for many years and the official CKC position has not changed, nor has our official policy statement prepared on the subject in 1987 regarding dangerous or vicious dog legislation. The CKC is frequently consulted by national and local media, concerned citizens, municipal bylaw officers and government bodies across Canada for input and thoughtful perspective.

Our intent is very simple: to encourage the improvement of current legislation through the passing of Bill 16 and deal with the individual circumstances surrounding any individual dangerous dog and their owners.

Our position is clear: The CKC supports dangerous and/or vicious dog legislation in order to provide the most appropriate protection for the general public and the innocent dog owner and the dog.

In closing and on behalf of the purebred dogs and their owners in the province of Ontario, please note for the record that the Canadian Kennel Club supports the opinion of all the experts that breed-specific legislation does not work as a solution for safer communities in this province or anywhere else. We also believe that the passing of Bill 16, reversing current legislation, will correct the serious legislative flaw that banned under the current definition of a pit bull three pure breeds and untold numbers of generic, randomly bred mixed-breed dogs also caught within the current laws.

The Canadian Kennel Club respectfully requests that you vote to support change through your support of private members' Bill 16. Thank you all very, very much.

The Vice-Chair (Mr. John Vanthof): Thank you for your presentation. The third party now has five minutes for questions.

Ms. Cheri DiNovo: I want to first start out by thanking you for your presentation and all the good work that you do, but also correcting something that was erroneously put into the record by Mr. Michael Coteau. I wanted to point him to a piece of paper that we've already received from the Ontario Veterinary Medical Association: The American Veterinary Medical Association opposes all breed-specific legislation. That is their official stance. There was a piece read out from the American Veterinary Association which was read erroneously, and we can go into the details of that after, but their official stance is anti-breed-specific legislation. I want to make that very, very clear. In fact, every veterinary association that we have here listed—if you look at the OVMA's second page, you'll see every single one listed there.

To get back to—

Mr. Michael Coteau: Mr. Chair, point of order.

Ms. Cheri DiNovo: No. To get back to the point—I've got five minutes; sorry—made by our deputant here, and it's a very important point, there are only 113 dogs that actually could be called pit bulls in the province of Ontario. Can I repeat that—

Mr. Sonny Allinson: Under the current definition of "pit bull." They are not pit bulls.

Ms. Cheri DiNovo: Yes, exactly, so 113 purebreds. Every other dog—1,000 have been euthanized that we know of—that has been targeted out there is a mixed breed. They could be more Labrador than anything else, and you would have to do, I'm sure, DNA testing to discover exactly what the mix is. The reality is that it's just the way a dog looks. It has nothing to do with their breed. So even if that description of a breed were correct, it would still be irrelevant—Michael, are you listening to this? It would still be irrelevant, even if that description were correct, because we're dealing with mixed-breed dogs.

0930

Mr. Michael Coteau: Point of order, Mr. Chair.

The Vice-Chair (Mr. John Vanthof): We'll stop your five minutes and take the point of order. Mr. Coteau.

Mr. Michael Coteau: There was just a reference made that I gave some incorrect information. I just want to be absolutely clear: The points that I referenced were from a 1993 article by Dr. Donald Clifford, Kay Green and Dr. John Scott. It was published by the American Veterinary Medical Association. I could easily submit a link to that article if necessary.

But I want to be very clear: I didn't say anything outside of what they reported. There were several points that they made. I was very clear. I think the member should refrain from pointing out that I've gave incorrect information when I've only referenced an article from 1993. If the veterinary association in America agrees or disagrees, that's one thing. What I'm speaking to is specifically another point from a 1993 article. I just want to be clear.

Ms. Cheri DiNovo: Okay, but I just wanted to be very clear that it was not the position of the American Veterinary Medical Association—

Mr. Michael Coteau: Mr. Chair, I never made reference to that. I want to be clear. I think she should correct herself.

Ms. Cheri DiNovo: Fair enough. I stand corrected. I wanted to make sure that the record showed very clearly that it wasn't the American Veterinary Medical Association that put forward that opinion.

To get back again to the question of what kinds of dogs are, first of all, being taken and then euthanized, they do not necessarily have anything to do with a purebred dog of any sort. So any descriptor of a breed would not be relevant to a dog, based on its facial characteristics, unless you could prove—again, these are mixed-breed dogs—that it had to do with all the mixes in that dog.

Again, I wanted to highlight our deputant's critical point: 113 dogs only could be considered purebred, and the rest of the dogs that have been taken are not purebreds of any breed. I think that's critical, because in the debate, what we've been talking about is that there is no such thing as a pit bull, and that's what we've been referencing.

I just want to thank you. I wanted to clarify some things that have been put forward on the record and again direct the committee's attention to all the associations—reputable associations—who are supporting this bill.

The Vice-Chair (Mr. John Vanthof): I'd like to go back to the point of order. I don't think it's a point of order; it's a dispute of the facts.

Did Mr. Sergio have a point of order?

Mr. Mario Sergio: Mr. Chair, for clarification, in the rotation process here, do we have the opportunity to ask questions of the deputants or can we make comments? How do we take the five minutes? Can we spend it just making comments, or do we have to address questions? Is that optional?

The Vice-Chair (Mr. John Vanthof): I believe the five minutes were for asking questions of the witnesses.

Mr. Mario Sergio: Okay. So if we want to make comments without asking questions, it's not permitted, right?

The Vice-Chair (Mr. John Vanthof): I think it would be up to the questioner—how they would want to preface those questions—how they use that five minutes.

Mr. Mario Sergio: Okay. Thank you. I thought I would clarify that.

Mr. Sonny Allinson: I'm fine either way.

Can I ask myself a question at this point? I would like to ask myself how I handled the best dog I've ever owned when it became a threat. It was a large breed. All large-breed dogs can be dangerous; they can be a threat. As a responsible owner, at four years old, the best dog I ever owned—and I don't judge, I don't show, I don't breed, I don't do any of that. I just love dogs and happen to be in a wonderful position to support them. I had to put the dog down. I had to put the dog down.

That's my choice; it's not the choice of a law.

The Vice-Chair (Mr. John Vanthof): We still have some time left for questions. Yes?

Ms. Cheri DiNovo: Thank you, Mr. Chair, and thanks for the clarifications. Yes, I think you've pointed out—and I thank you for that additional question you asked yourself, because all large dogs can be dangerous. I thank you for really representing dog owners across the spectrum. I personally have an English bull terrier who meets—

Mr. Sonny Allinson: We won't hold it against you.

Ms. Cheri DiNovo: Exactly—who meets the definition of this law but isn't targeted, because I can prove it's not a pit bull.

Mr. Sonny Allinson: Exactly.

Ms. Cheri DiNovo: But my heart goes out to those who can't prove their dog is not a pit bull, where really the onus is on proving your innocence rather than your guilt, with this law.

Thank you again for all the work you do. I took my time to make some points, because I thought it was absolutely necessary to do so on behalf of dog owners and their dogs.

Mr. Sonny Allinson: Thank you all very, very much.

The Vice-Chair (Mr. John Vanthof): Thank you for your presentation.

Mr. Michael Coteau: Is there still time remaining? Can we continue to ask questions? Okay, so I have a quick question.

We've heard from some deputants that some educational courses would be appropriate for dogs that show natural aggression. Would you agree with that?

Mr. Sonny Allinson: Absolutely. Education is the key, and it's the education that leads you to the point where you will know your dog: You will know when it is safe within a community, if you deem it to be unsafe at some times, and it will provide a grounding so that you can be comfortable with your dog in public.

Our program, the Canine Good Neighbour program, as I say, is available for anyone in this province and any other province across the country. It's a very simple program where you, as the person who is most responsible for that dog, go through a series of 12 or 14 stages of learning on how to read your dog and how to be safe.

Mr. Michael Coteau: Would you agree that that type of course should be mandatory for owners of certain types of dogs?

Mr. Sonny Allinson: At the original meetings with Attorney General Bryant, it was my suggestion at that time that the element of an educational unit of some sort be part of whatever legislation unfolded. That is a missing link within the current laws.

Mr. Michael Coteau: And that would be mandatory—

The Vice-Chair (Mr. John Vanthof): The time for questions is up, and we'll let him answer.

Mr. Michael Coteau: Thank you.

Mr. Sonny Allinson: It could be.

The Vice-Chair (Mr. John Vanthof): Thank you very much for your presentation.

MS. HEATHER MACK

The Vice-Chair (Mr. John Vanthof): I will now call on Heather Mack to please come forward. Welcome to the committee.

Ms. Heather Mack: Thank you.

The Vice-Chair (Mr. John Vanthof): You have up to 10 minutes for your presentation, and up to five minutes has been allotted for questions from committee members. Please state your name for Hansard, and you may begin.

Ms. Heather Mack: My name is Heather Mack, and I'm here today just as a private citizen, an average person. I really appreciate the opportunity to talk about Bill 16.

I used to deliver newspapers when I was a kid and ran into a lot of dogs. When I was about 12 years old, I was the victim of a dog attack and I ended up in hospital. A clueless house guest allowed a dog out the door and he attacked me, thinking he was defending his property. I can tell you that an attack by a Doberman is a very scary thing to go through. But even as I was sitting at the ER, being 12 years old, I was angry at the owner and not the dog. I remember being scared that the dog would be put down, so I didn't even allow myself to cry for fear that my parents would do something. I still have the scar from that bite.

But the experience didn't stop me from owning a dog, and today my heart belongs to a one-eyed basset hound named Winnipeg. When I first brought her home, I went through the horrible, painstaking exercises to socialize her. My friend Victoria told me that you're a good dog trainer when your neighbours think you're nuts. Any time Winnie was exposed to a new sound, noise or person, I'd clap my hands and tell her how wonderful it was. When she was scared, I wouldn't pick her up and coddle her, because I didn't want her to learn to be afraid. Now I have the slowest-moving animal in creation, because she thinks that everyone wants to pet her and give her cookies. She has never bitten anyone, and I don't think she would, but I know she's capable and I believe that in defence of her own life she would protect herself.

I believe that every dog has the capacity to bite—just as every human has the capacity to harm another—and, given the right circumstances, it could happen. But I don't believe that any specific dog is programmed to bite. I know there are much smarter people than me that will tell you about biology and behaviour of dogs, so I want to just talk about my own understanding of the issue.

Back in 2004, the Legislature was presented with the perceived problem of pit bull attacks in our communities. The victims are real, and I don't dispute that. I don't dispute their pain, nor do I dispute the need for the government to act, but I do disagree with how the Attorney General responded.

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Citizens and experts testified about canine behaviour, but no one was able to present local statistics or facts. Many experts, in fact, pointed out that there were no data.

The US data are not applicable because we have a very different dog culture. I think if you look at the crowds here that rallied to overturn the pit bull ban, or people involved in online groups, or many of the people you'll hear from today and over the coming days, they're overwhelmingly women, not thugs. They are average Ontario women, not the people who come to mind when you think of a pit bull owner, because the stereotypes of pit bulls and their owners are wrong. I can't disprove the stereotype with statistics, but neither can it be upheld.

But what does exist is a fear-based media that creeps over our border from the United States, and I believe that the myth of the pit bull that impacted every side of this debate came from the American media and was perpetuated by the Canadian media. In the absence of facts, that's all we had to go on.

There was a recent story that caught my eye about a dog named Rumble in BC who was shot by an armed robber while defending his family home. Every last media outlet—and not using a wire story; it was all independent local reporting—referred to Rumble as an American Staffordshire terrier, which is true. Now, if Rumble had attacked his owner, I guarantee you that story would have been about a pit bull and not an American Staffordshire terrier, because the media uses "pit bull" as a negative term, and that inconsistent use has helped to shape public opinion.

Even if you believe the media myth, though, I can't ignore the fact that the policy intent has not been achieved from Bill 132. Public policy is not frozen in time. It should be assessed and re-evaluated for its effectiveness, and if it isn't meeting its objectives, it needs to be either modified or repealed.

In my opinion, one of the great failings of Bill 132 was that it did lack province-wide reporting. In an era of government transparency and accountability, new legislation should go hand in hand with publicly reported statistics, because how do you know if something's working if you can't measure success?

The city of Winnipeg was routinely cited in earlier debates as an example of a pit bull ban working. I'm from Manitoba, and it's usually a source of pride when Ontario follows our lead, but in this case you imported a bad idea. There were 275 dog bites in Winnipeg when the ban was established in 1990. Winnipeg city council passed that ban with only one dissenting vote from council—a very good friend of mine, the former city councillor from Fort Rouge, Glen Murray. After the pit bull ban, bites did go down and Ontario used that information to back its own policy. But it's now a generation since that ban has been in place in Winnipeg, and there are no pit bulls left, but the bite stats are back to where they were and they're on the rise again. I know you heard from Calgary today. They didn't ban pit bulls but focused on what I think is the correct thing, which is education and focusing on the owners. So if you look at the two cities as very interesting case studies—different approaches with different results—I think Ontario should aim for Calgary's results and not Winnipeg's.

In conclusion, I know that the politicians who voted in favour of Bill 132 don't hate dogs. I know many of you own and love dogs. I walk my dog around Queen's Park almost every night, and we often run into MPPs and staff who want to say hello to Winnie, because basset hounds are some of the cutest and funny-looking dogs, and they're probably the most non-threatening dog in existence. So you might think that pit bull bans are not a big issue for me, but I am here because I do love all dogs and I want my government to protect people and to protect those dogs. So I urge the committee to support Bill 16 and recognize that the original policy objective has not been achieved, and put the focus on the correct end of the leash.

Lastly, I do want to applaud the leadership of Ms. DiNovo, Mr. Hillier and Mr. Craitor in bringing support from all sides of the House to this issue. It's a really powerful demonstration to Ontarians that politicians of all political stripes can work together on a common cause. Thank you.

The Vice-Chair (Mr. John Vanthof): Thank you very much for your presentation. This round of questions will start with the government.

Mr. Lorenzo Berardinetti: Thank you very much for your presentation. Just a couple of questions. First of all, I know you mentioned education.

Ms. Heather Mack: Yes.

Mr. Lorenzo Berardinetti: There are, I guess, two types of things that come out of that. There's training of the dog, which—my wife and I always watch that program with Cesar Millan, because we own pets as well—three cats; stray cats, actually. Do you support the same sort of thing, what happens, let's say, with Cesar Millan—he sort of goes into the house and trains the dog and basically—

Ms. Heather Mack: And trains the owners.

Mr. Lorenzo Berardinetti: —at the same time, trains the owners. He has done it with different breeds—I've watched several episodes of it. He goes into all types of people's homes, even some—I know you said that no thugs are here, but on the program I've seen some owners that appear not the best owners, but he's able to sort of deal with them. Do you agree with that approach?

Ms. Heather Mack: Yes. I support all forms of education for dog owners. I was lucky, I guess. Because I live in a condo, I have this constant fear of my neighbours complaining about my dog and eventually getting the boot, so I am very careful with training my dog. I support any public education, and I think people don't take dog ownership—it's more than feeding and watering your dog. You have to socialize it.

I look at my dog—because I live in downtown Toronto, we encounter different types of people, different breeds of dogs, and I think that's probably why she's so socialized. I look at my sister's dogs. They live in rural Manitoba. They have a huge yard. They have no need to really go out for—well, there's nowhere to walk to either. But they're not as social, because they just don't

encounter as many different people. But any education is good.

Mr. Lorenzo Berardinetti: Okay. I'm going to ask you, and this is in the friendliest form of all, but we have different models in every state in the US and the various provinces. There is an Italian model. It's quite complicated, because they don't ban pit bulls, but they put a lot of restrictions in place. I'm just going to ask you if this makes sense to you.

What they've done in Italy, and I'm sure the opposition members are aware of this, under the law—there are five or six points here—all dogs must be identified by microchip and tattoo; secondly, all dogs must be registered; thirdly, all dogs must undergo a behavioural test by a veterinarian. The next one is that a list of "dangerous dogs" is kept by the government. The next point is that pit bulls and other dogs classified as "naturally aggressive breeds" must be muzzled and leashed in public. And finally, owners of "naturally aggressive breeds" must obtain liability insurance.

It's quite a lot of things to do, but—

Ms. Heather Mack: I agree with some of that. I'm not crazy about the muzzle part, because—

Mr. Lorenzo Berardinetti: I was thinking about that as well. The muzzle part basically makes the pit bull or even other dogs that some may want to muzzle a target in a way, because I think we heard earlier of a situation that—I didn't have time to ask the questions, but even dogs that look like pit bulls become subject to attack by people who don't want to see the dog around, thinking that it's dangerous.

Ms. Heather Mack: I mean, I've never had to muzzle my dog, but I just think of the mechanics on a hot Ontario day and you're out with your dog. I don't understand how they can possibly be watered with the muzzle on. But requiring that a vet do a behaviour check actually has another advantage: that you're requiring your dog to get medical supervision, which is, I don't think, a bad thing.

As far as dog liability, most people would have third party liability under their homeowner's insurance. But, yes, I'd have to look more. I'm not really an expert on the actual mechanics of how that works.

Mr. Lorenzo Berardinetti: Yeah, because the main thing is, if we amend the bill, how do we make sure that dog bites in general don't happen? We're just learning, as well.

So I guess the question is—I'm sorry to put you on the spot here—how do we keep the dogs, the pit bulls, without dog bites taking place, basically? I guess beyond that model that I gave you and beyond education—you know, I support the Cesar Millan model—what else do you think can be done to make sure that a dog is not put down but is supervised, whether it be a pit bull or other dog similar that may potentially bite?

Ms. Heather Mack: I mean, I really would look at the results of other jurisdictions. We don't have to reinvent the wheel here. Looking at a place with a similar dog culture—I mean, Canadian dogs. I would say we have a lot of working dogs. We have a lot of farm dogs. We have a lot of dogs that we need for our very survival. So to find an example in Canada—and from what I do know about Calgary, I just hear such great things. I look at their outcomes and say that that's something we should aim for, that's something we like. I don't know all the details of it, but that's the way I think we should be going.

0950

I have looked at their public education material, which is great. Also, in preparing today, I thought about, who are the people most at risk of a dog bite—Canada Post, I would think, hydro readers, meter readers—and how do they educate their employees, how do they deal with that health and safety issue? Canada Post has a pretty interesting campaign for education as well. Nowhere do they encourage their postal workers to be more concerned about large dogs. Most of their bites come from small dogs. So it's an encompassing campaign to say that we need to reduce bites of all size of dogs, because I can tell you, a bite from a Doberman, not fun, and when my dog was teething with those sharp little puppy teeth, that was not fun either. So no bite is good.

Mr. Lorenzo Berardinetti: Okay, so—

The Vice-Chair (Mr. John Vanthof): Thank you. Excuse me. The time is up.

Mr. Lorenzo Berardinetti: Okay, thank you, Mr. Chair. Thank you for your presentation today.

The Vice-Chair (Mr. John Vanthof): Thank you very much for your presentation.

Ms. Heather Mack: Thank you.

HAPPY DOG COMMUNICATIONS

The Vice-Chair (Mr. John Vanthof): I'll now call on Sarah Dann to please come forward: Happy Dog Communications. Good morning. You have up to 10 minutes for your presentation, and up to five minutes have been allotted for questions from committee members. If I could ask you to state your name for Hansard, and please begin.

Ms. Sarah Dann: Hello, my name is Sarah Dann. Can you all hear me okay?

Thank you very much for having me here today. Thank you to the committee for your close attention to the matter at hand, and thank you in particular to the members who had the courage to bring forward Bill 16.

I feel privileged to speak in the company of the OVMA, and I hope you paid close attention to Bill Bruce and heard that there is another way—a better way—to deal with dogs in our society.

I have seen committee members in the hall, the washrooms, and some are absent at this time. I would appreciate it if you would ask your members to go back and review the testimony they've missed. Also, I would ask that this committee consider the testimony that was put forward in 2005 as part of my presentation, if you wouldn't mind.

My name is Sarah Dann. Seven years ago, I presented to you. Seven years ago, I was part of what Michael

Bryant himself declared an unprecedented four days of hearings in response to the then-proposed pit bull ban, courtesy of the Liberal government of Ontario. Seven years ago, all the experts who presented spoke against a pit bull ban. Seven years ago, the Liberal government ignored the experts and passed the pit bull ban anyway. Seven years ago, the Liberal government ignored the many citizens, including myself, who spoke before their committee, ignored the facts and passed the pit bull ban anyway. In so doing, they ignored democracy. Seven years ago, the Liberal government passed the pit bull ban and displayed disrespect not only for pit bulls but also for those who spoke, disrespect for democracy, disrespect for the citizens of Ontario and disrespect for the truth.

Seven years later, my hope is that this committee will have the courage, the decency, the common sense and the respect for the truth and for democracy to right this wrong that was done in 2005 when the pit bull ban was passed. They say, as you probably know, that the truth will set you free. My hope is that this committee will set the tens of thousands of people who you condemned with the pit bull ban and their dogs free. I still have this hope because I believe in the truth, and therefore I believe in pit bulls, and I hope that I can believe in government. We shall see.

It is difficult for me to speak to you today. I feel the weight of thousands of pit bulls and the people who love them on my shoulders. I got to know many of these people and pit bulls in the years prior to the ban. Since the ban, I have heard many of their often sad stories. It is those of us who owned and love pit bulls who are most hurt by the ban. We saw the ban as a betrayal of us by the Liberal government, and we have been the ones to suffer the pain the pit bull ban brought this province. We are not here in mass numbers today, but pit bull owners and those who love the breed have not gone away. They spoke seven years ago and were ignored. They have fundraised and tried to keep the word alive, and this group votes. Their Ontario includes pit bulls.

Let's talk about people, the people that you are here to represent: the people who own pit bulls, who love pit bulls, who play with pit bulls, who let pit bulls lick their faces, who walk them and buy their food and put on their leashes and rub their tummies. Let's talk about these people.

Estimates in 2005 were that there were probably, at a safe guess, 20,000 people in the province who were speaking out in favour of pit bulls. If anything, since the ban, that number has grown, as any person who understands dogs has joined in the outcry against this frankly ignorant, pathetic, stupid and terrifyingly dangerous anti-democratic law the Liberal government passed, called in short the pit bull ban.

Let's speak for a minute about pit bulls, the dogs that, despite all the expert testimony, the Liberal government banned; killed in mass numbers as a result of this above-the-law ban; muzzled, courtesy of good owners, in defiance of "innocent until proven guilty"; and branded with a label of "dangerous" despite all evidence to the contrary. So many dogs, so viciously manipulated for political purpose against all expert testimony in the Ontario government's own democratic system.

An unprecedented turnout: Michael Bryant himself testified in those hearings in 2005, and yet, since the hearings, hundreds—we heard today over 1,000—of pit bulls have been killed despite all the expert logic that should have saved them. Michael Bryant has killed more people than pit bulls have in the province of Ontario. The pit bull ban must be amended. We have all learned so much since then; let's be smarter.

As you have heard today, early identification of aggressive dogs is the surest way to protect the public. Education, not breed bans, could keep people safe. I would love to help with that education process.

Many who own pit bulls are the biggest dog lovers of all. These are the people and the dogs who have been punished by the pit bull ban. Good citizens with good dogs have tried to comply, mostly out of fear of what might happen if they did not. People with pit bulls are literally terrified that their dogs will be taken from them. Since the pit bull ban passed, I have watched hundreds of pit bull owners go almost mad in having to incorporate this legislation into their lives and the lives of their dogs: muzzling a great dog; not letting your dog play with its friends because it's a pit bull; paying attention to these new rules in your own life only because you are a responsible dog owner and fear that your pit bull might be seized under the new legislation and jailed. I've seen many owners barking mad because they could no longer properly socialize their pit bulls, well-behaved dogs, for fear of this lie of a legislation. The Liberal government asked good people with good pit bulls to stop properly socializing and exercising their pets. It was a travesty, a miscarriage of justice, a complete disgrace, and it was very hard felt by many residents of Ontario and their beloved pit bull pets.

How many of you have dogs? When you look into their eyes, what do you see? I can tell you for certain that no matter what dog's eyes you look into, you see the same thing I see when I look into a pit bull's eyes: love, hope, strength, intellect, trust. You are looking into the eyes of unconditional love—a dog's eyes. Think about muzzling that face for no reason, under word of a lie. Dogs trust us to make good decisions; we trust government to make good decisions.

Over the course of the pit bull ban fight in 2005 we learned many things; you've heard many of them again today. We learned that labs and retrievers and cocker spaniels bite as much as, if not more than, pit bulls do. We learned that German shepherds tend to bite more often. You didn't hear tell of a golden lab or a golden retriever or cocker spaniel ban, did you? Can you imagine the outcry if North America's favourite dog, the golden lab, was banned, or the golden retriever? But why not? As many were bitten by these breeds as were bitten by the pit bull. Why not? Because the pit bull ban was driven by fear, not by fact. The pit bull ban had a political agenda, not a practical one, and frankly, not even

Michael Bryant would have taken on labs and retrievers. But he was happy to go after pit bulls. The previous speaker spoke to the media myth that has been created around the pit bull terrier. In this case, I think it's fair to say that the bully was Michael Bryant.

Many people have never met a pit bull. Most who have recognize pit bulls for what they are: intelligent, athletic, loyal, confident and eager to please. I wish the same could have been said for the politicians who considered the expert testimony presented at the pit bull ban hearings in 2005. I often tell people that we're lucky that some weak-minded people want to own pit bulls.

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Pit bulls do not want to hurt people. They want to please them. There is a reason why Cesar Millan, the world's foremost dog trainer, relies on pit bulls for his interaction with other very difficult dogs. Pit bulls have incredible heart. They are a valiant breed, and I feel lucky to have come to know them as well as I do. I hope we can bring them back to the forefront in Ontario and educate people about the truth of the breed. Fact, not fear, is what we should be promoting; truth, not ignorance. As mentioned, I would be more than happy to assist with this education; in particular, as Bill Bruce of Calgary described.

I'm a citizen of the province of Ontario, and I speak on behalf of thousands of dog lovers and pit bull lovers in Ontario when I ask you to right the wrongs of the past seven years. Get rid of the pit bull ban and return truth, democracy and pit bulls to Ontario for dogs' sake, for all our sake and for safety's sake.

My name is Sarah Dann, and my Ontario includes pit bulls. Thank you.

The Vice-Chair (Mr. John Vanthof): Thank you for your presentation. We'll start the round of questions with the official opposition.

Mr. Randy Hillier: I don't really have a lot of questions, but I do want to put a couple of things on the record in response to your presentation and also to some of the discussion that's been going around this committee.

First, I'm going to say that bringing forth this bill, Bill 16, is an opportunity for us to begin to actually think about dog attacks. Bill 132, the original breed-specific legislation, took away the opportunity for us to think. I heard both Michael Coteau and Mr. Berardinetti talking about other models. We haven't had that opportunity to think about other models in this province, because there was no need to think. We just banned pit bulls. We were no longer required, or needed, to think. The corollary of zero tolerance is zero thinking. We have a zero tolerance policy for pit bulls and a zero thinking policy politically.

Really, what we've heard from all the evidence is that although legislation is good and proper to solve many of society's ills, it can't solve all of the society's ills. Education is a far greater effective tool to vet or solve some of society's ills, other than just legislation.

Just to put this into context and perspective again for all members of this committee, had we introduced a model along the lines of the Calgary model back in 2006 instead of this banned thinking approach, instead of 1,000 dog bites a year in Toronto, if we implemented the Calgary model and had similar effects, we would have reduced about 800 dog bites each and every year, and they would have been first-time dog bites.

Again, under the Calgary model, if you do have a dog that has exhibited dangerous, aggressive behaviour, they have a means and a mechanism to deal with that as well.

You were here back in 2006 and you spoke to Bill 132, and I think you've shared that your voice was not heard.

Ms. Sarah Dann: Not just mine, but literally every single expert spoke against the ban, as they did today.

Mr. Randy Hillier: Yeah.

Ms. Sarah Dann: In my opinion, given that that was the case, that should never have been passed. That's just a failure in the political system. People wonder why people don't vote, and I often trot out the passing of Bill 132 as an example of why they do not vote.

Mr. Randy Hillier: Well, this is the time for us to think about things other than headlines when we develop public policy, and I truly hope that that is what we achieve at the end of the day with this.

The Vice-Chair (Mr. John Vanthof): Any further questions? Ms. DiNovo.

Ms. Cheri DiNovo: Yes, I just want to thank you very much for you testimony, and apologies for all that you've been through. I know the 1,000 dogs—by estimation that was put forward here today—have been euthanized not for what they did but for how they looked. That's tragic for all the families that were involved. I think of the 100 sled dogs that were killed in BC and the uproar across the country. If people knew in this province how many dogs have been killed, there would be a similar uproar—and there is; I get that.

I wanted to also correct the record around muzzling as an alternative. Banning doesn't work; we know that. If you look at the statistics, as you pointed out—thank you for that—that cocker spaniels, Labradors and German shepherds are more likely to bite than pit bulls, then one would have to muzzle all large dogs. Obviously, that's not the answer either.

You pointed to education, and I think the Calgary model—but not only the Calgary model; many other jurisdictions also have made do and done better than we have in terms of reducing dangerous dog attacks and dangerous dogs, period, with education.

Ms. Sarah Dann: The reason I ask that the committee consider all of the words that were spoken in 2005 is because what was done over those four days was an incredible amount of conversation around owner responsibility, around some of the issues that were only barely touched on today, because they feel like they've been done to death by those of us who have been part of this fight for the past nearly 10 years.

But owner responsibility is the key to dog safety. Dogs do not go out in public on their own, generally. Particularly in urban environments, it's people who put them on

their leashes and who have to put the muzzles on them. So what you're doing is insisting that people, actually, take care of dogs, and that's why the Calgary model works, because they're putting the onus on people to make sure their dogs don't attack other people.

When Julian Fantino spoke in 2005, he mentioned that the police tend to know when they're going on to a property that has a dangerous dog. At that point in time, those dogs tended to be pit bulls trained to attack officers at grow ops. Well, those dogs don't need to be muzzled on those properties. The ban does not work on so many different levels. Criminals don't take the time to put a muzzle on their pit bull. It's good people who do it, and it's not fair.

The Vice-Chair (Mr. John Vanthof): Thank you very much for your presentation.

I believe that's our final presenter for today, so that would conclude our business today. The committee is adjourned at the call of the Chair. I always like to do this.

The committee adjourned at 1008.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 25 avril 2012

The committee met at 0802 in committee room 1.

PUBLIC SAFETY RELATED TO DOGS STATUTE LAW AMENDMENT ACT, 2012

LOI DE 2012 MODIFIANT DES LOIS EN CE QUI A TRAIT À LA SÉCURITÉ PUBLIQUE LIÉE AUX CHIENS

Consideration of the following bill:

Bill 16, An Act to amend the Animals for Research Act and the Dog Owners' Liability Act with respect to pit bulls / Projet de loi 16, Loi modifiant la Loi sur les animaux destinés à la recherche et la Loi sur la responsabilité des propriétaires de chiens en ce qui a trait aux pit-bulls.

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order.

We are here for public hearings on Bill 16, An Act to amend the Animals for Research Act and the Dog Owners' Liability Act with respect to pit bulls. Please note, for members of the committee, that written submissions received on this bill are on your desks.

MS. ANNA MACNEIL-ALLCOCK

The Chair (Mr. Peter Tabuns): I'll now call on Anna MacNeil-Allcock to please come forward. Ms. MacNeil-Allcock, you have up to 10 minutes for your presentation, and up to five minutes have been allotted for questions from committee members. Please state your name for Hansard and begin.

Ms. Anna MacNeil-Allcock: Good morning. My name is Anna MacNeil-Allcock. Thank you for this opportunity to speak to such an important issue.

I have worked with dogs for 22 years now, from wrestling with them in an animal hospital to assessing their behaviour in animal shelters. I have also worked privately with the owners of aggressive dogs for a number of years.

As for my experience with pit bulls, I have shared my life with pit bulls for 17 years now. I have owned them, I have adopted them out, fostered them, assessed them in animal shelters, and I have studied them. Pit bulls were the topic of my master's thesis in the animal welfare program at the University of British Columbia, and today I bring to you the results of that study.

It will come as no surprise to you that the early pit bull literature falls terribly short of our needs. Most, if not all, of the studies used to support breed-specific legislation are flawed and misleading. I will come back to some of these studies at the end of the presentation, if I have time.

Our study is titled Aggression, Behaviour, and Animal Care Among Pit Bulls and Other Dogs Adopted from an Animal Shelter, published in the Animal Welfare journal in 2011. This study was designed to gather much-needed information, focusing on details about their behaviour, the people who own them, and the lifestyle and environments of pit bulls. That's why I'm here today in person. I can't think of a more relevant piece of information for the discussion today, and I would like to describe to you what we did and what we found.

The BC SPCA allowed us to use their main branch for our research. We gathered two groups of dogs together as they entered the shelter. As 82 dogs entered the shelter, we placed them in either the pit bull group or the "other" group. We matched the groups as closely as possible in size, age, and coat length. We followed them through the animal shelter and into their adoptive homes, recording behaviour of the dogs and gathering details about the owners and the environment.

The pit bulls were identified using physical characteristics, the same way that they have been identified here in Ontario since 2005 for the purpose of Bill 132. You have heard or will be hearing compelling and accurate arguments about the difficulty of visually identifying a pit bull or any other breed, and I agree with that. Therefore, the pit bulls in this study represent the population of dogs that will be targeted if Bill 132 is not overturned.

In the study, we measured aggression at three different points in the journey. First, we recorded how many dogs were euthanized at the shelter for showing severe aggression, like attempting to bite a staff person or a member of the public. Second, we recorded how many dogs were adopted out and then returned to the shelter with reports of aggressive behaviour. Here is what we found: We found no difference in the number of dogs euthanized at the shelter due to aggression, and there was a significant trend for the other dogs to be returned to the shelter with reasons of aggression.

The third measure of aggression was recorded in the adoptive home. For the dogs that were adopted out and

not returned to the shelter, I went to their homes. I interviewed the owners and I took notes on the behaviour of the dogs and the environment, especially 10 of the most common areas where dogs show aggression. Questionnaires were used to guide the interview and gather information on the owners, the environment and their relationships with the dogs. It's important to keep in mind that none of the participants were informed that this was a pit-bull-specific study.

In regards to the owners and lifestyle, what we found about the owners was not what we expected. When we asked if they had hoped to adopt a pit bull, most admitted they had not intended on adopting a pit bull. They had intended on adopting a different breed, but were charmed by a pit bull. Some were hesitant. One person even went to other shelters looking for a different dog, but had fallen in love with a pit bull and came back to adopt him. These owners were, in fact, average dog owners who just happened to have a pit bull. They represent a new profile of the pit bull owner, one that has not been acknowledged in science until now.

As for the lifestyle, the environment was the same for both groups. I was pleasantly surprised at every visit. All of the dogs had been acquired for companionship. They lived indoors, they were left alone less than four hours a day, had regular play time, exercise and park visits, and they were truly a part of the family. So the first important message is that a large population of diligent and responsible pit bull owners does exist.

Although it was unexpected to find that the lifestyles were the same between both groups, it provided a great opportunity for us to test the genetics of the dogs. Having both groups in the same environment neutralized the environmental effects and thus any differences found between the groups could potentially be pinned to the dogs themselves. With this in mind, what did we find? Were there differences in behaviour between the two groups?

Of course, not all of the dogs had aggression. This represents the dogs that had no reports of aggressive behaviour. For the dogs that did have some aggression problems, we categorized them into owner, strangers and animals. There was a significant trend in the number of other dogs that were aggressive to their owners. None of the pit bulls were aggressive to their owners. Aggression towards strangers and animals was the same for both groups.

I also asked specific questions about six other typical aggressive triggers: children under 12, skateboards, joggers, while eating, when stepped over, and when moved while sleeping, and there was no difference between the groups.

Most important: dog bites. There were six bites by the other group, four of which broke the skin. There was one bite by a pit bull which did not break the skin.

Fact 2: Pit bulls adopted to good owners showed no evidence of increased aggressive behaviour.

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We also found that pit bulls had three very desirable qualities that increased the strength of the human-animal bond. Of course, we've already talked about how they were not aggressive to owners at all; they were significantly more likely to sleep on the bed or in near proximity to the owner; and they were significantly more likely to cuddle, which is what we consider leaning, touching, tactile connection with the owners, seeking out physical attention. All three of these things in particular have been associated with a strong human-animal bond.

Neidhart and Boyd show that the behaviour of the pet is actually what determines the strength of the bond, more than the characteristics of the owner or the lifestyle of the owner. So pit bulls behave in ways that facilitate a strong human-animal bond.

What does it matter? What is a human-animal bond? We've all heard about the benefits of pet ownership—better health, lower stress—but these benefits only occur when the bond is strong, which then leads to happy and healthy people who spend money in the community.

For example, strongly attached owners are more content with their dog's characteristics; they will overlook undesirable behaviour; they are less likely to relinquish pets due to housing issues; they regularly visit veterinarians and buy pet insurance; and finally, they enjoy walking and spending time with their dog. This is a pretty good description of a responsible owner. These are the folks who stand to be targeted by any breed-specific legislation.

Fact number 4: Average pit bulls adopted by average owners are beloved pets and beneficial members of the social partnership.

To summarize, a large population of diligent, responsible pit bull owners exists; our studies showed no evidence of increased aggression in adopted pit bulls; they behaved in three ways—

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Anna MacNeil-Allcock: One minute left.

They behaved in ways known to facilitate a strong human-animal bond; and they are a beneficial and beloved member of the family.

I'll just talk a little bit until the end. "How to prevent the first bite" was a question that was asked a number of times last week. I personally feel that the Calgary model is an excellent model. It focuses on responsible pet ownership rather than the dogs themselves, and I think our study shows that's the best step to take.

Identification—microchipping and licensing all dogs: I feel that microchipping is a really important aspect because it's actually following the dog itself from the beginning to the end. You're able to then keep track of the history of that dog from owner to owner, and that's what we want to be able to do. Thank you.

The Chair (Mr. Peter Tabuns): Thank you. This round of questioning will start with the official opposition.

Mr. Randy Hillier: Thank you very much, Anna. That was an excellent presentation. I trust you got excellent marks on your master's thesis. By the way, when did you complete that thesis?

Ms. Anna MacNeil-Allcock: I didn't complete the thesis; I did the study. I did all the research, and then I moved on to a job. I got hired in Oregon, and I just flew away.

Mr. Randy Hillier: Okay. Obviously, you've been interested in studying pit bulls and dogs. Are you aware of any jurisdictions where there has been a breed-specific ban that has demonstrably reduced dog aggression or bites?

Ms. Anna MacNeil-Allcock: No. I've known of legislation in British Columbia that came in and then ended up going out because it was of no use. They usually end up going towards an owner-focused model.

Mr. Randy Hillier: I will say that your study on the dogs being on the beds and cuddling, having two pit bulls or dogs that—they certainly do enjoy that a lot more than—

Ms. Anna MacNeil-Allcock: Yes, it's their natural habitat.

Mr. Randy Hillier: Yes, absolutely.

Listen, I don't have any other questions because I do think you've covered a good breadth with that study and have shown that, by their nature—maybe one other question. You said that only one dog with a pit bull characteristic had bitten, as compared to, I think, six from the other—

Ms. Anna MacNeil-Allcock: The other group?

Mr. Randy Hillier: But it didn't break the skin, so I guess that somehow defeats that media hysteria of the locking jaw.

Ms. Anna MacNeil-Allcock: Right. I can speak to that, just for a minute. Dr. Lehr Brisbin is a research scientist in South Carolina. He has actually dissected and measured the skulls and muscle tissue of a pit bull skull and found that there was no difference. He also states that there has never been an actual test of the pressure strength, the jaw pressure. That doesn't exist and probably would be impossible to do. And the locking jaw, there's no such thing. Maybe there's training for bite and hold, which the police do with their German shepherds. That's a common thing.

The Chair (Mr. Peter Tabuns): Thank you for your presentation.

Ms. Anna MacNeil-Allcock: Thank you.

DOG LEGISLATION COUNCIL OF CANADA

The Chair (Mr. Peter Tabuns): I'll now call on Dawne Deeley, executive director, Dog Legislation Council of Canada, to come forward. Dawne?

Good morning, Ms. Deeley.

Ms. Dawne Deeley: Good morning.

The Chair (Mr. Peter Tabuns): You have up to 10 minutes for your presentation and up to five minutes have been allocated for questions from committee members. Please state your name for Hansard and begin.

Ms. Dawne Deeley: Good morning. My name is Dawne Deeley. I live in Sidney, British Columbia, and I come to you today as the executive director of the Dog Legislation Council of Canada. For 22 years I have been a member of both the Finnish and Canadian Kennel Clubs. Eighteen of those have seen me breed Karelian bear dogs under the Tsar Shadow prefix, which is permanently registered with the CKC.

In 2005 the President of Finland, Her Excellency Tarja Halonen, declared I be awarded the Cross of Merit of the Order of the Lion, one of her country's highest civic honours, for devotion and duty shown in preserving and maintaining this breed.

I have owned American pit bull terriers for over 30 years. I'm a United Kennel Club dog show judge and an international member of the Kennel Club of Great Britain. Additionally, I am involved with the following organizations:

—treasurer of the Canadian Kennel Club Foundation;

—life member of Suomen Pystykorvajärjestö, Finland's parent body for native hunting spitz dogs;

—board member of the Belgian-based World Dog Press Association and masthead columnist for Dogs in Review magazine;

—vice president of both the American Staffordshire Terrier and Swedish Vallhund Clubs of Canada;

—member of Dog Writers Association of America;

—member of Canadian and American national fox terrier clubs;

—member of the Norwegian Elkhound Club of Canada, the Morris and Essex Kennel Club and Lower Mainland Dog Fanciers.

I bring this to your attention not to brag of my personal merit, but to prove in part that I have "made my bones" in the world of dogs, both in Canada and abroad. If it's experience you want, it's in this chair.

I am fortunate for the decades spent with, around and in the constant company of any manner of breeds. It has given me the opportunity and privilege to travel widely to nations such as Finland, where American pit bull terriers and their owners walk the streets unfettered by muzzles and unchallenged by authorities, or Serbia, where specialty conformation dog shows for American Staffordshire terriers draw entries in the hundreds, far more than in the United States. In doing so, the chance to observe and evaluate regional, national and international dog legislation is always there for me.

I didn't come here to talk about pit bulls or maulings or thousands of dead dogs, because there's a lot of emotion attached to that and that's something I would like to strip away for a minute so we can speak logically and rationally about why we, as a society, create legislation in the first place.

We use dog laws for two things. First, we want to prevent dogs from being a public nuisance: Don't allow your dog to jump on people; don't let them soil where they're not supposed to; don't let them destroy other people's property. It's pretty simple and generally, nobody has a problem with these things.

We also use dog laws to try to prevent dog bites. The terminology can be confusing, but that's pretty simple

too. We're trying to stop dogs from biting people and pets, period.

Even breed-specific legislation has the ultimate aim of public safety, the right of every person not to feel the teeth of a dog on their arm, their leg or their face.

But—and we always have a but—the question we need answered is this: Does breed-specific legislation reduce dog bites? In 1991, when the UK enacted one of the first country-wide breed bans in the world and Winnipeg took up the cavalry charge here in Canada, nobody really knew the answer to that. In 1993, when Holland enacted theirs, it was still very much up in the air. The experts railed against breed bans because experience led them to believe that these types of laws didn't make any sense. Yet there wasn't proof one way or the other, and it was easy for governments to fall into the trap of trying to satisfy public lust for revenge and the media's clamouring for something—anything at all—to be done right here and right now.

0820

Two decades later, we have much more information than ever before. Now, throughout the world, we are seeing dramatic changes in approaches to dog legislation. In Canada, the premiere example of this was presented last week by Calgary's Bill Bruce. His numbers are not only astounding in their effectiveness, they are, quite bluntly, the best numbers you will find anywhere in North America. This city of a million people has done what dozens of other cities and countries have championed, but never actually accomplished. They reduced dog bites—not by a little; by 80%. And that's made in Canada, eh?

Last week you heard about Winnipeg, but not for the same reasons. That city has had a breed ban since 1991 and originally touted their success at ridding themselves of the pit bull problem. Yet their total bites did not go down and, in a number of instances, actually increased until 2002. At that point, they opted for the Calgary licensing and education model. As soon as they did that, bites dropped by 28% and stayed there.

In 2005, my hometown of Vancouver, BC, repealed their six-year-old breed-specific legislation because it has not reduced dog bites. In 2011, Delta, BC, repealed their 15-year-old breed-specific legislation because it has not reduced dog bites.

Breed-specific laws are also being retracted outside of Canada. Last week, Mr. Berardinetti mentioned that Italy had taken a restrictive approach to what he referred to as "naturally aggressive" breeds. They certainly tried. Initially, they targeted 93 purebreds and a couple of mixed varieties. They then added further restrictions to 17 of those. However, in April 2009, Italy completely removed all breed-related restrictions. The reason? Because in six years, they'd seen no reduction in dog bites.

On June 9, 2008, the Dutch Minister of Agriculture removed all restrictions and bans. Their reason? I'll say it again: in 15 years, no reduction in dog bites. Fifteen years—that's a decade and a half. It's a long time, and this province is halfway there.

This was confirmed by a government study, by the way, that concluded the physical traits of a dog—its appearance—did not predetermine its temperament.

Early this year, Ohio, one of the jurisdictions the Ontario Liberals consulted when drafting Bill 132, completely rescinded the automatic designation of "pit bulls" as vicious dogs. Toledo's dog warden, Tom Skeldon, a star witness in the Ontario government's court case in 2007, was forced to resign amid huge public outcry over his unprecedented killing of adoptable dogs and puppies.

In Norway, the Norsk Kennel Klub is currently in conversation with that government over the objective of removing their breed bans.

Finally, in what is likely to be one of the biggest strikes of all, the UK Legislature is preparing to abolish one of the oldest breed bans in the world. England's Dangerous Dogs Act has been reviled as one of the most draconian, discriminatory and destructive pieces of legislation worldwide. Thousands of dogs have been destroyed, millions of pounds have been wasted and, according to the Kennel Club, dog bites have not been reduced but in fact continue to rise. Are you starting to see a trend?

Current member of Parliament Caroline Nokes openly criticizes both the former government and the media, saying, "Banning the pit bull terrier in 1991 was a huge mistake; creating a picture to the general public that certain breeds of dog are dangerous and others not is hugely irresponsible." The private member's bill proposed and supported by Lord Redesdale condemns breed-specific legislation on the grounds that a dog's behaviour is influenced more by environment, training and the responsibility of its owner, rather than by genetics or phenotype.

Supporting this is research by Bristol University, which found bull breeds, including the currently banned American pit bull terrier, are no more likely to be aggressive than any other breed.

It is important to note also that Ontario's legislation was modeled almost in its entirety on UK policies, which leaves one to surmise by virtue of uneducated guess that it would be just as ineffective.

So what can we do? The Kennel Club of Great Britain, together with interested groups and various politicians, has developed a list of suggestions aimed at creating a new dog control bill, which would better serve the public through responsible dog ownership. Implementation would come through avenues in the form of dog control notices. Though the format would vary, the content can be tailored to the specific situation and could encompass anything from yard fencing to the completion of an approved temperament test. This would result in fewer mistaken identity cases with a subsequent drop in unsubstantiated accusations. Any dog which is the recipient of a dog control notice would be subject to mandatory microchipping to ensure that it can be identified in the future. Local authorities would be required to keep records, thus easily identifying repeat offenders. If the

person on whom the notice is served fails to comply, he could be liable to prosecution and could face anything from monetary fines to imprisonment. However, it is imperative that the rights of owners be addressed and that authorities issuing such notices be required to ensure they know what they're talking about in relation to training and control.

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Dawne Deeley: Thank you.

A trigger-happy law enforcement officer or self-aggrandizing animal control officer does nothing other than make an unpleasant situation even more problematic.

Much of what has been suggested in Great Britain has already been implemented in Calgary, and we know how that works.

In closing, if you look at the numbers, the decision is easy. The eight jurisdictions mentioned above experienced no reduction in dog bites using breed-specific legislation, yet Calgary accomplished an 80% reduction in bite incidents using a simple, well-designed and properly executed program of education and enforcement.

Please, I beg you not to keep doing the same thing when it has already been proven over and over not to work. Don't dig your heels in for the sake of making more ruts and say "I'm right" when the numbers dictate otherwise. Find a new way. Please support Bill 16. Thank you.

The Chair (Mr. Peter Tabuns): Thank you. This round of questioning will go to the third party. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you very much for your testimony here today.

In response to the thousands and thousands of petitions that we have presented in the House around this bill and bills that have preceded it on the same topic, we heard from the Attorney General a pretty standard answer. The Attorney General has said, "Well, dog bites have gone down in pit bull breeds." I'd like to know what your response is to that.

Ms. Dawne Deeley: I would like to know if the Attorney General can actually identify a pit bull breed. I suspect that the blanket identification procedures that are used to cover most pit bull breeds also enmesh an awful lot of dogs out there that are not pit bull breeds. To me, that's just smoke and mirrors.

Ms. Cheri DiNovo: You mentioned the UK and other countries. I know in the United States—I was watching the Westminster dog show. Staffordshire terriers were highlighted, there was a category for them, and the American pit bull is a category for them as well. Maybe you could comment on some of the American examples.

Ms. Dawne Deeley: If you're referring to purebred registration statistics, as an apprentice United Kennel Club pit bull terrier judge, I can tell you that we're looking at registration figures in six figures. This is one of the United Kennel Club's—it's in the top 10 of their most popular breeds every year. Even though they do not release public registration figures, I can assure you that we're talking about tens of thousands of dogs, and you don't see tens of thousands of bite statistics cropping up just because you have these pit bull terriers. Some of the most successful dogs in the American show world right now are American Staffordshire terriers. They are routinely shown. I can go to any show down in the United States on any given weekend and see several of them. You don't see those dogs showing up in bite statistics.

Ms. Cheri DiNovo: One of the images that seems to have been seared into the public imagery on this issue is, of course, the young thug with a pit bull with a black leather collar. Of course, we've seen dogfights where, if you're looking at the pit, you're seeing dogs that look like pit bulls. This is the image, I think, that many people have of the pit bull owner and the pit bull venue.

We've heard from across the aisle some concerns like "Dogs are bred for certain activities, and the pit bull has been bred to fight." I was wondering if you could comment on that.

Ms. Dawne Deeley: My response to that would be, guns can kill people, as well, but just because I'm licensed to have restricted firearms doesn't make me a gun-running terrorist.

Ms. Cheri DiNovo: I also wanted to point out—and I don't want to put words in your mouth—that other dogs, like German shepherds, for example, that have been used in law enforcement have been given some of the same training, and some of the same breed characteristics have been looked for in other large dog breeds other than pit bulls.

Ms. Dawne Deeley: I think if you were also to look at statistics in regard to fatalities, you would see that pit bull terriers—you've seen these figures many times; I don't need to reiterate them—and their ilk do not figure in these statistics. There was just a case, two days ago, I believe, in North Carolina, where a child was eaten by a mixed breed dog, retriever mix. Of two fatalities that occurred in Canada recently, neither one of them was the same breed and neither one of them was a pit bull terrier dog.

0830

So I know that the media—and I don't use this in any disrespect—and politicians tend to pick and choose situations to serve specific aims, and the pit bull terrier and these breeds have been the victim of that.

Ms. Cheri DiNovo: And just a last question: I know that we've received thousands of emails and thousands of names on petitions. Just in your experience, what does the average pit bull owner, Staffordshire terrier owner look like?

Ms. Dawne Deeley: I'm right here.

Ms. Cheri DiNovo: Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much.

Ms. Dawne Deeley: Thank you.

AWESOME DOGS

The Chair (Mr. Peter Tabuns): Our next presenter is Yvette Van Veen. Yvette, could you please come forward? You have up to 10 minutes for your presentation. Up to five minutes have been allocated for questions from committee members, but my guess is you know that by now.

Ms. Yvette Van Veen: I've heard that.

The Chair (Mr. Peter Tabuns): Could you state your name for Hansard?

Ms. Yvette Van Veen: Yvette Van Veen.

The Chair (Mr. Peter Tabuns): Please begin.

Ms. Yvette Van Veen: Thank you to all the committee members for taking the time to be here today regarding Bill 16.

I'd like to take a minute to explain my role and position in the pet industry. For over a decade, I have worked as a dog behaviour consultant, currently certified through the International Association of Animal Behaviour Consultants. As a pet writer, my work appears in newspapers and magazines. I am also the author of a child dog bite prevention book. I am a dog owner, having always owned mixed-breed rescue dogs. But the most important role I have is that of being a mother.

When the McGuinty Liberals tabled the Dog Owners' Liability Act, reputable experts opposed the legislation. Experts called for effective measures with a proven track record of success instead of breed banning. We people who wanted a Calgary-based model were vilified, with some saying we love dogs more than children. This was the furthest thing from the truth. We have always been on the side of public safety. Experts, including myself, warned the Liberal government that breed ban legislation would be ineffective. We have seen breed bans fail in many other jurisdictions, dismissive of injuries and aggressive behaviour in all other breeds of dogs. The law fails to prevent injuries.

It fails people like Kori Lyn Edwards, a little girl who was killed by the family dog. And who can forget the shih tzu that removed part of a Home Depot employee's nose? In another incident, Janice Roberts was rushed to the hospital with severe injuries after being attacked during a routine walk. News stories tell how emotionally traumatized the experience left her, afraid to venture any distance from her home. In Ottawa, a three-year-old toddler was transferred to Toronto Sick Kids, the bite to her face was so severe. The dog in question was a golden retriever.

There are many more incidents since the Dog Owners' Liability Act came into effect. None of the attacking dogs have been banned breeds.

Supporters of breed bans, specifically the ban on pit bulls, a slang term that now inspires fear, point to pictures of people who have been mauled by "pit bulls." I ask those people to look at pictures of Kori Lyn and the other victims. Breed-specific legislation provides a false sense of security.

And statistics tell us that dog bites have not gone down in frequency. For example, Toronto has three sets of statistics. Two come from Toronto Animal Services. One set of numbers widely quoted states there were 847 bites in 2006 and 446 in 2011. These numbers are widely quoted in the media to show the ban is working.

The second set shows a very different picture, stating there were 426 incidents in 2006 and 537 in 2011. Bites are up.

Given the discrepancy, it is best that we look to Toronto Public Health, the third set of numbers. Toronto Public Health investigates breaks in the skin to people caused by dogs. In 2006, public health had 914 incidents. In 2010, they reported 1,027, up by over 100.

Other areas of the province show similar trends. The following municipalities were forthcoming in providing their data sets. The last reporting year provided by the municipality is used in each example: York, 2006, 456, up to 464 in 2010. Ottawa: 2006, 515 investigations of suspected bites, up to 586 in 2010. Middlesex-London Health Unit: 296 bites in 2006; as of October 2011, already at 298. Halton: 324 in 2006, 401 in 2010. Bites are up in each and every area, and the increase may very well be worse than what these numbers indicate.

As a professional in the pet training industry, I am noticing an alarming trend. Dog owners are convincing victims not to report bites, and by the time owners seek assistance, their dog has bitten multiple times, yet there is no record of aggressive behaviour on file with animal control or public health. Punitive measures have created a culture where pet owners fear the law, and it is creating new problems.

We need to prevent aggression, and this is done by learning which factors are tied to increased aggression. A key part of dog bite prevention is the veterinary community. A published survey by the University of Pennsylvania found that 50% of dogs with behaviour problems had an undiagnosed medical condition.

And peer-reviewed research from around the world shows that environmental factors, not breed, determine aggressive behaviour. Some of these factors include living outdoors rather than indoors, tethering and chaining, overly restrictive leash use, lack of early socialization, yard size, owner attitude and lack of bonding, and confrontational training methods. One of those studies by Erika Mirkó, published in Applied Animal Behaviour Science, states: "As far as aggressiveness is concerned, no specific variation could be observed between any of the breed groups."

But owners are at a disadvantage. A research study in the Journal of the American Veterinary Medical Association states that "dog owners frequently had only limited knowledge of dog behavior and often were unaware of factors that increased the risk of dog bites to children."

Most owners are not irresponsible. They don't have access to accurate and timely information. This happens because the pet industry is unregulated. Owners are vulnerable to dangerous practices.

Breeders follow voluntary codes of conduct. Substandard breeders flood the market with dogs that are

physically ill and undersocialized. Breeding is not about allowing two dogs to mate. Breeders care for puppies during a critical period of development. Dogs placed too early—prior to eight weeks of age—have poor bite inhibition. When they bite, they often do more damage. Environments that fail to provide socialization create dogs that are fearful of humans and thus become a bite risk. This is not a problem of genetics; it is substandard care—care well below what the CKC recommends.

Pet training is also unregulated. A 16-year-old kid can call himself a trainer, behaviourist or dog psychologist. Experts can advise owners to use techniques that research shows are unsafe. One study in Applied Animal Behaviour Science states that "dogs subjected to physical reprimands scored significantly higher on aggression subscales."

Research from the University of Pennsylvania states that many techniques often suggested by trainers, media, television shows, books, sales clerks in stores and the Internet can trigger an aggressive response. Some techniques trigger aggression in greater than 40% of dogs—a significant risk. According to the study, "confrontational ... interventions applied by dog owners ... were associated with aggressive responses."

Manufacturers of pet training products are aware of the risks. One manufacturer clearly states their product "may result in a fearful or aggressive response to a person or other animal" near the dog.

So I caution the government that scientific, peer-reviewed evidence needs to be heeded to ensure that owners are directed toward strategies that reduce aggression rather than increase it.

How do we prevent the first bite? Remove the breed ban. It is not working. Then listen to science, because reliable information is available. Calgary offers a great model upon which to base Ontario law. The province can create an umbrella that provides uniform guidelines that all municipalities can follow, while allowing some flexibility to meet the needs of individual communities. But do communicate with municipalities. They need processes by which to escalate fines to the provincial level if they are to adopt the Calgary model.

0840

I ask that the provincial government take ownership of unregulated sectors of the industry. Deal with irresponsible breeders and an unregulated training industry. Utilize existing provincial organizations to help educate families. Health units already have communication with new parents through newsletters. They have a forum where they can educate new parents regarding active supervision.

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Yvette Van Veen: Thank you.

Basic safety measures should be encouraged, but again I urge caution. Current research recommends further testing of various child safety programs to ensure effectiveness and safety.

Create literature that animal control agencies can provide to new dog owners at the time of licensing. Owners cannot change their behaviour if they do not know how to prevent dog aggression.

If all levels of government and industry experts work together, we have the opportunity to make a difference on a scale that has never been previously achieved. More importantly, we can reduce the number of dog bites and attacks in a way that breed ban legislation has failed to do.

The Chair (Mr. Peter Tabuns): Thank you. This round of questioning goes to the government.

Mr. Lorenzo Berardinetti: Thank you, Ms. Van Veen, for your presentation. I agree with a lot of what you had to say. The theme that I think is coming out of all the presentations last week and today is that the focus should be on the owner and not on the dog—training the owner so that it doesn't become aggressive. For example, Cesar Millan has a TV show, and he goes into someone's home and teaches the owners how to keep a dog in proper order

So if there was to be a new bill or something besides the Calgary model, I just wanted to get your comments quickly on focusing on the owner versus on the dog. Do you think the focus should be on the owner?

Ms. Yvette Van Veen: I don't think it's necessarily either. If you don't have an education system that gives accurate advice—and we know that a great percentage of the training techniques that are used cause aggression; in fact, a new research study shows that training was tied to an increase of aggression, especially with certain techniques. So should the focus be on the owner? I think you need to do a systemic solution.

If you cherry-pick, then I think you run the risk of not having the success you should have, and you might create problems where they don't need to be. So yes, the owner needs to be educated, and most people will follow that advice, but it needs to be the right information. You don't want to steer people on the point of dangerous information.

Mr. Lorenzo Berardinetti: So if new legislation came in, it would have to mention something about how to properly train the dog, maybe in the regulations attached to the bill. Okay, I understand that.

My colleague has a question, but I have to ask one final thing. I'm being naïve, but when I first went to school back in the 1970s, I remember the focus was on German shepherds. Everyone was afraid of German shepherds. Then, later, the focus was on Doberman Pinschers, and that seemed to fade away. Now the focus is on pit bulls, which is kind of strange. I walk past Doberman Pinschers, and no one's afraid. So I guess you folks are saying, don't pick on one breed, because it could be the Doberman Pinscher breed, it could be the German shepherd breed.

Ms. Yvette Van Veen: Yes, I hear what you're saying. I think the minute I knew that the breed ban was not going to work was when a reader of a column called in and said to me: "If I take my really aggressive pit bull terrier and cross it with something fuzzy, will I get really aggressive fuzzy puppies that will get past the ban?" That

type of attitude, I think, is what is leading into these breeds changing. So unless you want to get behind and keep playing catch-up—now we're going to get this breed and this breed and this breed—you're never going to catch up, and while you're trying this strategy there are too many injuries happening that could have been prevented if we just did the right thing in the first place.

Mr. Lorenzo Berardinetti: Thank you. My colleague has a question.

The Chair (Mr. Peter Tabuns): Mr. Coteau.

Mr. Michael Coteau: Thank you very much, Mr. Chair. A quick question: Do you support microchipping of pit bulls?

Ms. Yvette Van Veen: Do I support microchipping only pit bulls? No. Do I support the chipping of all dogs? Yes. And the reason is this: When you have owners who start to get behaviour problems, sometimes they struggle placing those animals into shelters. They don't necessarily take surrenders all the time. People feel bad putting the dog down, or maybe they don't have the skills to fix the problem. So then what happens is those owners take those dogs and they place them on Kijiji or they dump them into the rural areas of the province where those dogs are running free. They're intact; they're breeding; they're mating. Those dogs, had they been chipped—if that dog has a bite history and that's coded into the chip, a potential new owner can check those records rather than take a dangerous dog and put it with children. Or if there is a rescue that's picking up feral dogs, which is something I have a lot of experience with, to be able to chip it and see that this dog already has a muzzle order on it, that's valuable information. And also in terms of going back on the owner and saying, "You've abandoned this dog." That is a criminal offence under the OSPCA Act.

Mr. Michael Coteau: And the education piece, is it for all dogs or just some dogs?

Ms. Yvette Van Veen: All dogs. I mean, as you've seen, you've had children killed since the Dog Owners' Liability Act came into effect in Ontario, so why would we exclude breeds and dismiss those incidences? Those injuries should be prevented as well.

The Chair (Mr. Peter Tabuns): Thank you for your presentation.

Mr. Michael Coteau: Just clarity on the last piece, Mr. Chair—

The Chair (Mr. Peter Tabuns): No, I'm sorry. We've come to the end of the time, and we've got a whole stack of people.

Ms. Yvette Van Veen: Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you.

STAFFORDSHIRE BULL TERRIER CLUB OF CANADA

The Chair (Mr. Peter Tabuns): Could I have Clive Wilkinson come forward, Staffordshire Bull Terrier Club of Canada. Mr. Wilkinson, you have 10 minutes for your presentation, and up to five minutes of questions from the committee. Could you please state your name for Hansard and begin.

Mr. Clive Wilkinson: My name is Clive Wilkinson. Thank you for this opportunity to speak before this committee. I would like to introduce myself. I am a retired teacher with 34 years' experience in the elementary schools; a soccer administrator with experience at the local, provincial and national levels; and a youth soccer coach for 52 years. I am proud to say that Staffordshire bull terriers have been important members of my family for 67 years. When the ban began, we had eight in our family; now we have three. My life has revolved around family, dogs and children.

I am also president of the Staffordshire Bull Terrier Club of Canada. This is a Canadian Kennel Club registered breed club founded in 1965, representing the interests of purebred breeds across Canada. Our members voluntarily follow a strict code of ethics and promote sound breeding practices and responsible ownership.

We actively oppose breed-specific legislation. We do not believe that any breed or breed type is more naturally aggressive or dangerous than any other. The club supports equitable public safety laws based on sound science, not on mythology. We support public education as a means to reducing dog bites. We support Bill 16.

In Ontario, when our government passes a law to improve public safety, citizens and lawmakers alike should be confident in the expectation that the law will indeed fulfill its promise. Legislation passed to improve public safety should always be founded on the best research, science, and expert help available.

In 1976, Ontario passed mandatory seatbelt use in cars. This good law is estimated to have saved over 8,000 people. In 2009, Ontario law banned the use of cell phones while driving. Health and Safety Ontario now reports that cell phone driver deaths are down 47%. It is illegal to drive while impaired in Ontario. Drinking-and-driving fatalities are down 29%. These laws, responses to real dangers, and based on scientific investigation, have indeed fulfilled the promise of improved public safety.

Almost seven years after the breed ban came into force, public agencies from across the province are reporting that bite statistics are not going down, and in many cases are increasing. The breed ban is not working. The public is not safer. Ontario has a choice: It can continue to bury its head in the sand and ignore this fact, or it can put in place laws and programs that have been proven to work.

0850

No breed is naturally aggressive. Two detailed studies done in Germany prove this. One investigated aggressive behaviour of 347 dogs belonging to banned and non-banned groups. The dogs were tested for their temperament. The results of this study proved that the assumption of a difference in dangerousness between the categorized dogs in the Dangerous Animals Act and those not included is not justified. The second study compared 491 dogs of the pit bull type with a control group of 70 family-owned golden retrievers. The conclusion stated,

"Therefore, assuming that certain dog breeds are especially dangerous and imposing controls on them cannot be ... justified." Consequently, the breed-specific legislation was withdrawn.

For purposes of enforcement of the ban these past seven years, dogs have been identified purely by phenotype—appearance and behaviour. New DNA testing shows that this method of identification is unscientific. DNA testing is now proving that 75% of dogs identified as pit bulls are actually a mix of dozens of breeds with little or none of the banned breeds in them. This means that three quarters of dogs that have been seized and euthanized may have been identified incorrectly. Identification by phenotype is not accurate. If it looks like a duck and quacks like a duck, it may not necessarily be a duck after all. Ontario deserves better.

Would simple consistent enforcement of existing licensing and leash laws prevent the majority of bites in Ontario? Certainly the results in jurisdictions like Calgary prove that this would be the case. Furthermore, studies show that putting the emphasis on irresponsible owners and developing educational programs for all has reduced serious dog bite attacks and has made the public safer. You cannot legislate common sense, but you can educate it.

When we say that Staffordshire bull terriers are a breed apart, this is not just the biased opinion of dog owners; it is actually true. The Staffordshire bull terrier and the American Staffordshire terrier are CKC-registered purebreds. As such, the federal ministry of agriculture declares that they are "breeds apart" and "of value to our society." They are relatively rare breeds in Canada. In fact, there are only 113 of these dogs in Ontario.

When university researchers in the United Kingdom, where there are over half a million Staffordshire bull terriers, were asked to rate the 10 best breeds for children, they selected the Staffordshire bull terrier based on its "bomb-proof" nature. They found the breed "tolerant to the point of martyrdom" with children.

Most importantly, when the researchers in Germany studied aggression in several breeds, they found the same level of inappropriate displays of aggression across all the dogs in the studies, with one "notable" exception. None of the Staffordshire bull terriers displayed any type of aggression whatsoever. We therefore dispute any claims that our breed is naturally aggressive.

Ontario's pit bull ban is not fair and just. The ban is unfair to thousands of smooth-coated mutts. It is also unfair to innocent purebred dogs whose CKC registration papers, microchips or tattoos make them automatically guilty with no recourse under the law. Ironically, being an owner of a purebred dog puts you in the most vulnerable position of all.

Law intended to work for the welfare of all succeeded only in criminalizing thousands of law-abiding owners and making us fear the very law and agencies meant to protect us.

In closing, as president of the Staffordshire Bull Terrier Club, I am obligated to recommend our breed to you. Bred for sound temperament, they love people, live to please us and are a trusted pet around children. We are outraged that the "nanny dog" has been banned. We are equally outraged that any dog—

The Chair (Mr. Peter Tabuns): You have one minute left, sir.

Mr. Clive Wilkinson: —who is substantially similar to our wonderful breed has been banned as well. Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much. Questions now go to the official opposition. Mr. Hillier.

Mr. Randy Hillier: Thank you very much, Clive. Wonderful to see you here to deliver that presentation.

We've been hearing from so many thoughtful people—this is our second day of hearings now—and what we can conclude is that the evidence demonstrates that bites are up where there is breed-specific legislation. The evidence is that breed-specific legislation does not work and the evidence also shows that we can't identify this dog, whatever this dangerous dog is, accurately. We can't. What is a pit bull and should they be—as you've mentioned in your presentation, there's a variety of breeds within all these pit bull terriers. We also have the Staffordshire terriers, which also get thrown into the "dangerous dog" mix.

The evidence is clearly in front of us all, and I think we're starting to see some recognition by the government as well that there ought to be some changes to the existing legislation.

To identify a dog other than by descriptors—smooth coat, broad shoulders—on the DNA testing, even at that, can you expand what would be involved in DNA testing?

Mr. Clive Wilkinson: Well, first of all, quite an expense. They either take a swab from the inside of the mouth or take a blood sample. Then it's sent off and it can take several weeks to come back. I'm no scientist; I'm just an elementary school teacher. They then, because of taking the blood types of all specific breeds of dog, can compare what is within the samples that they have. It literally in some cases is dozens of different breeds.

Mr. Randy Hillier: Absolutely. The Staffordshire terrier club would never go to that length to determine if a dog was—you use the lineage to determine if it's a registered—

Mr. Clive Wilkinson: In one of the tests that the Germans carried out, it's said they put the dogs through five levels of temperament testing. Fluffy bunny starts, but then level 1 starts the aggressive tendencies like pulling on the lead, jumping, whatever else. They say that definitely the first two levels of aggression can be easily changed by training the dog and going to a proper dog training school. If a dog continues to show aggression beyond that, then you start looking at the muzzling of the dog. Finally, level 5, if nothing else works, then it should be euthanized. I don't think anybody sitting here would ever advocate having a dog that was dangerous.

I mentioned my involvement in teaching and soccer coaching. It also involved, 100% of the time, that my dog was involved with the children. I would never, ever bring a dog of any type near a child where I thought there was going to be aggression. As a school teacher, I used to see dogs come in to the playground and three things happened: One third did nothing, one third of the children chased the dog, and one third screamed. I spent my time during that day going around the classrooms, educating children on how to approach a dog and whatever else. Simple programs in schools can inform the children of how to behave properly with any dog.

0900

Mr. Randy Hillier: What I see as one of the great unseen consequences of the present legislation is that it takes away the requirement for people to think and to be responsible. We've got this legislation out there that says, "We've banned the dangerous dogs in Ontario. There are no more dangerous dogs here." So we, as individuals, no longer have to think when we approach a dog, or we no longer have to think about when we own a dog. The banned ones, the dangerous ones, are gone, and there's no more thinking required when you have a total and complete ban, is what we have.

Mr. Clive Wilkinson: We stated in the last hearings that people would now think they were safe, and they're not.

The Chair (Mr. Peter Tabuns): Mr. Wilkinson, I'm going to have to thank you for your presentation and go on to the next presenter.

Mr. Clive Wilkinson: Thank you very much.

AMERICAN STAFFORDSHIRE TERRIER CLUB OF CANADA

The Chair (Mr. Peter Tabuns): I now have Cathy Prothro from the American Staffordshire Terrier Club of Canada. As you know, you have 10 minutes for presentation, and then we go to five minutes of questions. If you'd state your name for Hansard and please begin.

Ms. Cathy Prothro: My name is Cathy Prothro and I'm from Dartmouth, Nova Scotia. I'm the founding president of the American Staffordshire Terrier Club of Canada. I'm the secretary-treasurer of the Dog Legislation Council of Canada. I am the Am Staff club representative for the Banned Aid Coalition. I am the liaise for Clayton Ruby's office for the constitutional challenge. I'm a life member of the Canadian Kennel Club. And I have owned Am Staffs since 1978 and bred under the Barbary Coast prefix. I am an international specialist for the American Staffordshire terrier and have judged them at national shows worldwide.

I'm just going to give you a snapshot of what has happened if you have owned one of the proscribed breeds under Bill 132 since its inception.

Ontario: twice the size of Texas, three times the size of Germany, five times the size of the United Kingdom; home to a breed-specific legislative ban covering the largest geopolitical area in the world, a ban that discriminates not by action or deed but by physical appearance, a ban that targets American pit bull terriers, American Staffordshire terriers and Staffordshire bull terriers, and haunts any pure or crossbred canine bearing a substantial physical resemblance to one of the aforementioned.

The 2004 brainchild of the province's Attorney General, Michael Bryant, the now-infamous Bill 132 was conceived as a vote-grabbing safety measure, a poorly designed and ill-appointed law geared to target the public's visceral fear of dog attacks. Implemented in August 2005, retribution against innocent canines and owners was swift. Walking your pet without a muzzle now meant risking seizure without warrant. Visitors and residents alike who travelled without certified documentation faced the spectre of breed misidentification looming around every corner. Pets that showed natural protective tendencies within the boundaries of their home turf could then be turned in on the suspicion of being menacing. This last was particularly frightening, because simple barking at passersby could be interpreted as threatening. Law enforcement, animal control and various other agencies with no training in either animal behaviour or breed identification were now given carte blanche in the evaluation process. Failure to pass muster on any of the above could and did result in a one-way trip to the officials' choice of humane society, pound or research facility. There were few second chances then, and nothing has changed except for what we're doing here today.

This ban has raised both the conscience and ire of dog lovers from British Columbia to Prince Edward Island. It's not just a pit bull issue. It's a Rottweiler issue. It's a Doberman issue. It's about boxers and bull mastiffs, bull terriers, Neapolitan mastiffs, Boston terriers, Great Danes and vizslas. Are you surprised? These are but a handful of breeds that have come under scrutiny and endured public censure following the implementation and subsequent overbroad interpretation of Attorney General Michael Bryant's bill.

From the beginning, concerned groups and individuals questioned the feasibility of a legal challenge, a challenge directed at the violation of constitutional rights, yet still allowing for the punishment of those who wilfully put animals and people in harm's way. Prominent trial and constitutional lawyer Clayton Ruby was immediately retained. With help from the American Staffordshire Terrier Club of Canada, the Golden Horseshoe American Pit Bull Terrier Club, the Staffordshire Bull Terrier Club of Canada and Advocates for the Underdog, a coalition was formed, spearheaded by and including the Dog Legislation Council of Canada, and aptly named Banned Aid. This group was to play a prominent role in the ensuing months, bringing the plight of Ontario's dogs to those who otherwise might never have considered the gravity of the situation.

We have come this far, and it is in large part due to the faith of our members, our friends and allies, individuals who possess the same gritty determination hallmarking the breeds this bill seeks to eliminate.

I have just given you a snapshot of owning an alleged pit bull in Ontario since August 29, 2005.

I would like to thank the MPPs for the opportunity to present here today in regards to Bill 16. I am here today not only in the defence of American Staffordshire terriers, but also in defence of all dogs and responsible owners who were unjustly penalized when Bill 132 came into effect.

Included in my package is a synopsis of the American Staffordshire terrier, a study from university professor Dr. Irene Sommerfeld-Stur, Institute of Animal Breeding and Genetics, University of Veterinary Medicine in Vienna, and Dr. Sommerfeld-Stur's affidavit as an expert witness in the constitutional challenge to Bill 132. Also included in the package is Dr. I. Lehr Brisbin's affidavit as an expert witness, also for the constitutional challenge—and in Dr. Brisbin's study and affidavit, he debunks the locking-jaw theory.

I ask you to read this information in its entirety to ensure your grasp of the breed differences you are dealing with, as well as to understand the depth of work that has been done internationally in studying BSL and in concluding pretty much universally that it does not effectively address the problem of dog bites.

Am Staffs have been bred since 1936 as companion dogs and stock dogs, and they are shown in conformation. They compete in obedience and agility trials. They're flyball dogs, St. John therapy dogs, search-and-rescue dogs, hearing ear dogs, and in Europe are used as Seeing Eye dogs. How, then, did Am Staffs get on the AG's hit list of proscribed breeds? Why the Staffordshire bull terrier and the American pit bull terrier, for that matter, both registered breeds, both with the same track record?

It is evident that Bill 132 has included anything similar in type to what it considers to be a "pit bull." This word does not denote a breed, but rather is a generic term used to describe any short-coated muscular dog, a term that could be equated to most mongrels and, in fact, which encompasses so many breeds and crossbreeds that they're too numerous to mention. You'd have to be a canine psychic to figure it out.

How, then, is it possible to ban something with no legal description or definition? Why are the prescribed breeds named in Bill 132 targeted? Because they look alike? Because they share similar ancestry? These are not good enough reasons. By the government's own admission before the Superior Court of Ontario, their reply to the same questions was this: because pit bull is not a breed. Without legal definition, the three core breeds were added because they have standards and can be legally defined. So the three core breeds—the American Staffordshire terrier, Staffordshire bull terrier, American pit bull terrier—are all recognized breeds.

0910

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Cathy Prothro: They were added because they can be defined.

Breed bans do nothing to stop dog attacks; they do nothing to stop illegal activity; they do nothing to protect the public from irresponsible dog owners. But they do punish responsible dog owners, causing court litigation, wasted tax dollars and impoundment of innocent dogs by criminalizing Canadian citizens.

Non-breed-specific laws for the protection of the public welfare and safety with the degree of precision that characterizes effective legislation—this is why I am here today. Please be rest assured that even if Am Staffs were not prescribed, I would still be here, as breed-specific legislation is an ineffective, costly, knee-jerk reaction to the problem of irresponsible dog ownership.

I would ask the committee to amend DOLA with Bill 16 and to hold people accountable for their canine charges. The city of Calgary developed and implemented the premier dog laws in North America. I would urge the committee to look seriously at Calgary. It is effective and fiscally prudent. Let's work together for Ontario to be the first province in Canada to have a premier law and set precedent for the rest of the country.

The Chair (Mr. Peter Tabuns): Thank you. Questions will go to the third party. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Mr. Chair, and thank you so much for your presentation. We heard it in testimony last week and other places that conservatively about 1,000 dogs have been killed under this law. Just recently, we witnessed a hundred sled dogs being killed in an unwarranted way in BC, and criminal charges were laid for their killing. Here we have 1,000 dogs, most of which were not killed because of something they did but because of the way they looked. I'm sure you must know some of those owners or some of those stories. Maybe you could just share what it feels like to have your dog taken and euthanized because of the way it looked.

Ms. Cathy Prothro: Because of the Dog Legislation Council of Canada and what we do, when Bill 132 came in, we were inundated with seizures: "What do I do? People, what do I do? You know, they're taking my dog. They say it's a pit bull; I can't say it's not a pit bull. There's no such thing as a pit bull. How can you prove an impossible? How can you prove a negative?" These stories were day in and day out. And trust me, we went through them for years; we're still going through it.

I mean, there are not a lot of us to handle this stuff, so you can imagine what it did to our own lives, as well. I don't even live in Ontario; a lot of us don't. But I cannot imagine what it would be like to live in Ontario with one of the proscribed breeds. It would be every day, looking over your shoulder and around the corner. People were persecuted and they're still being persecuted.

Ms. Cheri DiNovo: They last presenter talked about the Staffordshire dog, and here I'll just lump them all together, as being the "nanny dog." It was surprising to me to learn that they actually were used as nanny dogs to look after children, that that's their reputation. Maybe you can say something about the nanny dog, which is another term for the so-called pit bull.

Ms. Cathy Prothro: The Staffordshire bull terrier and the American Staffordshire terrier and the bull terrier, the

American pit bull terrier, the miniature bull terrier, are all kind of like your core breeds coming from the bull dog and terrier crosses of hundreds of years ago—a couple of hundred years ago. And you'll find this nanny dog trait in all the bull and terrier type of dogs. But the Staffordshire bull terrier has been nicknamed the nanny dog because basically that's what they like to do—and the Am Staffs will do the same. They like to be with the kids; they'll stick at your feet. I mean, in this day and age it would be nice if you could let a dog babysit your kid instead of the TV, but that's not the way to go about things. I guess the overall statement would be that these breeds were selectively bred for their demeanour around children and their demeanour around people.

Ms. Cheri DiNovo: Now of course we also know that the element in our communities that still supports dog fighting—and I still see pictures on Facebook that dog fighting continues—have used dogs that look like pit bulls in those dog fights. They've also used Dobermans, they've also used Rottweilers, they've also used all sorts of other dogs. Where did this hysteria come from, do you think, around the pit bull? Because we've heard so much testimony. We know it's hysteria now, it's not warranted, but all it took was a couple of media photographs of a dog that looked like an Am Staff to generate this.

Ms. Cathy Prothro: Well, it whipped up media hysteria, creating a climate of fear. I think it's kind of McCarthyism at its finest. Everybody wants to hate something, or dislike something. The media will pick something, and "pit bull" is very sexy, a great buzzword—everybody hates this. So that's basically what has been happening: It's a climate of fear created around hate.

Ms. Cheri DiNovo: Just the last question that I have and that I asked another presenter: What does a pit bull owner look like?

Ms. Cathy Prothro: Pardon me?

Ms. Cheri DiNovo: What does a pit bull owner look like?

Ms. Cathy Prothro: Can we have a show of hands?

Ms. Cheri DiNovo: Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much for your presentation.

Ms. Cathy Prothro: You're welcome. Thank you very much.

ADOR-A-BULL DOG RESCUE

The Chair (Mr. Peter Tabuns): Our next presenter: Emily Ugarenko, Ador-A-Bull Dog Rescue. As you probably know, you have 10 minutes to present. There will be five minutes of questions. If you could state your name for Hansard and begin.

Ms. Emily Ugarenko: Emily Ugarenko. Good morning and thank you for the opportunity to speak. I'm the co-founder of Ador-A-Bull Dog Rescue. My rescue partner, Lisa Burnes, is also present today. Ador-A-Bull Dog Rescue's primary focus is the bull and terrier type of breeds targeted under the current Dog Owners' Liability Act, but we will help, and have helped, any dog, of any breed, on a case-by-case basis.

I'm 32 years old. I'm a commercial artist by profession. I've apprenticed as a dog trainer with Yvette Van Veen of Awesome Dogs, whom you heard speak earlier. During that time, she held the contract for the National Service Dogs, London chapter. I am the recipient of five awards from the International Positive Dog Training Association, was a columnist for the Canadian Association of Professional Pet Dog Trainers newsletter, Forum, a humane society volunteer, and have sat on the board of directors for the Ontario Rabbit Education Organization and the Canadian Centre for Pet Loss Bereavement. I am a conscious citizen of Ontario, wanting to add my voice and efforts to improving animal welfare and responsible pet ownership.

My rescue co-founder and I have spent the past seven years devoting the majority of our free time to traveling across this province to meet, perform behaviour assessments and save the lives of dogs affected by this current law—close to 300 dogs at last count. In addition to that, we've answered thousands of emails from dog owners in distress, most of whom have owned non-bull and -terrier type dogs, but rather mixed-breed dogs caught up in the "substantially similar" clause of the law.

I'm here to share my first-hand experience of how the current law is not working, how it is sentencing to death innocent dogs of all different unidentifiable mixed breeds. The current laws are punishing good, innocent, responsible dog owners. We have witnessed vast discrepancies in how the law is enforced by animal shelters and animal control centres across this province because they have simply chosen not to or do not have the resources or training and education of what this law actually entails.

When Bill 132 was discussed prior to its passing at committee, Michael Bryant, the Attorney General at the time, stated, "Nothing is more effective than eliminating the animal that is causing the harm over time from the community." The animals we are seeing eliminated from the community are dogs that have done nothing wrong. They have been seized because of their appearance and because of their age; that is, being too young to legally be allowed to be alive in this province. Over the years, we have seen the most interesting, stunning and muttly motley crew of dogs be swept up in these witch hunts: Labs, beagles, German shepherds, Boston terriers, Great Danes, boxers and even a wheaten terrier or two.

To further illustrate this point, when you have a moment I would encourage you to look through the photos that will be supplied in my handout. These are all dogs that were seized or surrendered under what various enforcement agencies deemed to be fitting characteristics of a pit bull, which, may I point out, is one of the most glaring inconsistencies we have witnessed in our rescue work, this whole concept of breed identification.

The majority of shelters and animal controls do not agree with the law. They do not want to see an innocent dog die and they call us for help.

So what have we effectively eliminated from the community? Litters and litters of mixed-breed puppies, dogs that have gone on to be adopted as sound, loving, highly trainable and well-behaved family companions. I believe the committee has received several written submissions from our out-of-province adopters.

0920

Those owners of dogs of questionable behaviour and temperament are not the ones walking them on city streets to continue their urban socialization. They are not the individuals seeking municipal dog licences, and as such having their dogs confiscated in the process. Irresponsible dog owners have simply been pushed further underground. Of all the dogs we've saved, of all the legal cases we have assisted in, none of these dogs has posed a threat to an individual or domestic pet.

The law has been proactive in eliminating canines based on appearance, and as we've heard time and time again from countless experts, appearance is by no means a predisposition to temperament or behaviour and subsequently any future bite concerns.

Mr. Bryant also said, "For the responsible owner of the pit bull, nothing really changes. That dog is muzzled and leashed, neutered or spayed. That pit bull will live happily ever after and finish off its life in Ontario. That's the way the act works. I think everybody understands or should understand by now that that is how the act would work: It would phase in the ban."

This is also a far cry from what the past seven years have been like for owners of these dogs affected by the law. Both my co-founder and myself have experienced verbal harassment on walks, vandalism to our homes and vehicles, and much emotional distress over being able to keep our beloved pets safe.

For me, all it took was a neighbour who had interacted with my dogs on a weekly basis, always commenting how sweet and well-trained and well-behaved they were, to have it suggested to them that my Labrador retriever cross might be part pit bull, to call local animal control and say they did not want that kind of dog living next door to them. When I questioned the investigating officer they sent to my home about what my dogs had actually done wrong, he told me nothing, but because there was a concern about breed, he had no choice but to pursue me.

The next thing I knew, I was hiring a lawyer to help me prove my dogs' breeds and ages, and repurchase the municipal dog licences I already had. In London, Ontario, when licensing a mixed-breed dog, they apparently don't keep any of your vaccination, spay/neuter or obedience training paperwork on file, but will happily pursue you, issuing full-out fines and destruction orders if your neighbours suggest your dog may be a pit bull.

My dogs had to stay off my property for a month in hiding until animal control told me they felt it safe for them to return, given the climate of intolerance my neighbours had created. I had a woman who lived two doors down from me for three years say that if she ever saw me or my dogs near her home she would have her husband get his shotgun and kill us all. She didn't even know my name but had previously frequented yard sales in my driveway, commenting on how cute my mutts looked peering out through the windows.

I never walked my dogs in the neighbourhood. From then on, they exercised in my backyard, which had a six-foot, solid wood privacy fence only. I would check my yard daily looking for items that may be laced with poison intended for my dogs, at the advice of animal control.

I moved out of the city of London that year. I walked away from the home I owned and a vehicle I co-owned with my fiancé at the time. Due to the stress of the ordeal, our relationship dissolved. I feared for my life and the lives of my dogs, and my story pales in comparison to those that have landed in the Ador-A-Bull inbox. This is a pretty far cry from happily ever after.

I would also like to touch on Mr. Bryant's mention of enforcement and revenue. He stated: "Lastly, on municipal costs, there are a number of new revenue opportunities that arise from this bill through the provision of fines."

Over the past seven years, Ador-A-Bull has worked with a wide cross-section of OSPCA affiliate branch shelters, humane societies, municipally and privately funded animal control facilities, and rural animal shelters. I can tell you unequivocally that the vast majority are not imposing any fines upon those from whom they are seizing or being surrendered these dogs who fall under the vague description of the current laws. So much so, Ador-A-Bull has several dogs currently residing in Halifax, Nova Scotia, born from several different litters but of the same parents. A backyard breeder known to enforcement in a municipality within greater Toronto whose dogs were given mixed-breed designation prior to the law passing continues to breed and sell their puppies being identified as pit bulls.

So there's the cost to officers investigating the situation repeatedly, the cost to the system to vaccinate, microchip, and spay/neuter these puppies prior to having Ador-A-Bull act as the transfer agency, yet there are no fines being imposed, nor is there any financial gain of annual licensing on these mixed-breed puppies here in Ontario. So no money is spent in the Ontario economy in terms of veterinary care, food, supplies and training courses. Multiply that by the almost 300 dogs our organization alone has transferred out of province and your tally of lost revenue far outweighs the opportunities to gain that were never carried out from day one.

Not only does this illustrate the law not being properly enforced as it was written, but it shows glaringly how it's not even acting so much as a deterrent to the type of individuals one would classify as irresponsible owners.

Further to that, it's often the representatives of Ador-A-Bull explaining the provisions of the law to those employed in these animal care facilities. They are aware there is a breed ban, but know little more than what they have decided to research themselves. A law was passed with promises of what it would achieve and how it would be enforced, yet those expected to do so did not receive

so much as basic training or familiarization with provincial legislation. The differences we see in rules and regulation in terms of enforcement from city to city are staggering.

Even more concerning was the realization that the type of behaviour assessments Ador-A-Bull performs on any dog entering our program is a rarity in the shelters we visit. Dogs are being adopted out to the general population with no screening for reactive triggers that could pose larger safety issues in terms of bites. We have a law that targets breeds based on appearance but does not mandate a basic safety precaution in terms of general dog adoptions.

The Chair (Mr. Peter Tabuns): You have one minute.

Ms. Emily Ugarenko: Thank you.

In closing and in summary, the current Dog Owners' Liability Act has put good people, responsible owners, regardless of mixed-breed appearance identification, in a sometimes impossible position. Perhaps the most compelling argument with respect to why breed-specific legislation fails is that it simply does not address the issue of irresponsible dog ownership; nor does it provide any tools or programs within communities to ensure any safety when dealing with any dog, regardless of breed, not targeted by BSL. Restricting breeds of dogs does not address the real issues. Only when all dog owners are held accountable for the actions of their dogs will adverse dog incidents be reduced.

My name is Emily Ugarenko, proud dog owner and rescuer, and my Ontario includes all dogs.

The Chair (Mr. Peter Tabuns): Thank you. Questions go to the government. Mr. Berardinetti.

Mr. Lorenzo Berardinetti: I wanted to thank you, Ms. Ugarenko, for your presentation today. Just a couple of questions, because I think my colleague has a question or two as well. I just want to get this straight. For example, people, including yourself, have mentioned that pit bull is not a breed, so I'm going to ask for an analogy so that I can figure this out myself. For example, sometimes I meet a dog owner and I say, "What kind of dog is it?" They'll say, "It's part poodle and part beagle," so maybe what's happening here is that the poodles—let's say they're banned because the enforcement officer doesn't recognize the difference between a pure poodle or one that's mixed in with a beagle so that it's a mixed breed. A lot of dogs are of mixed breed. Are you saying that a pit bull is a mixed breed in the same way?

Ms. Emily Ugarenko: As you heard earlier, there are several registered pure breeds, and then you have that all-encompassing "substantially similar" clause, so essentially any dog that isn't ankle high with a curly coat became a substantially similar pit bull. Again, as I mentioned, if you look on the back page of our presentation that will be handed out, we have seen an incredible cross-section of dogs, and by and large, the number of dogs coming in and out of the shelter are mixed-breed dogs, but as soon as that mixed-breed dog doesn't have a long coat or a fluffy tail, it potentially becomes a pit bull.

Mr. Lorenzo Berardinetti: Thank you. I appreciate that.

The other question I had for you: Do you support the Calgary model?

Ms. Emily Ugarenko: I absolutely do.

Mr. Lorenzo Berardinetti: I guess one more, final question: You mentioned in your presentation that you do some training.

Ms. Emily Ugarenko: Yes.

Mr. Lorenzo Berardinetti: So the focus when you do the training is on the dog owner and not the dog, for example? You have to educate the owner as well?

Ms. Emily Ugarenko: The training I did to be able to go into rescue work was to work part and parcel with both dog owners and dog laws and learn the tools in working with both of them. To have well-trained, safe companion animals in our community, which I touched on again in my presentation, is something—when we walk into these municipally funded shelters, these humane societies, we will have a gathering of staff and volunteers watching us do these assessments, looking for the potential triggers in the dog's behaviour and how they're going to act and react, because this isn't something they're trained in as their job, a municipally funded employee picking up their paycheque, but this is what we've chosen to do as our volunteer work on our time, in terms of looking out for community safety and responsible pet ownership.

Mr. Lorenzo Berardinetti: Thank you. I think my colleague, if there's time, has a question.

The Chair (Mr. Peter Tabuns): Mr. Coteau.

Mr. Michael Coteau: Thank you very much for your presentation, and I'm sorry to hear of your challenges that you went through. It seemed like a very difficult time.

A couple of questions: Do you support the identification of so-called pit bulls by microchip?

Ms. Emily Ugarenko: I support the microchipping of all dogs. Again, as previous presenters mentioned, it gives that ability to trace those dogs through the duration of their life and, whatever potential issues hopefully do not but may arise, hold owners that much more responsible.

Mr. Michael Coteau: And what about educational courses? We've heard from other people that for dogs classified as pit bulls, owners should have to go through an educational course. Do you support that?

0930

Ms. Emily Ugarenko: All dogs have teeth. All dogs can bite. All dog owners should. It's entirely way too easy in this day and age to click on the Internet, drive 20 or 30 minutes, pay a couple of hundred bucks and come home with whatever size, shape or breed of dog you choose—that's it, that's all. The rest is in the hands of the owner.

Mr. Michael Coteau: So you would support amendments to the bill that would make it mandatory for identification and educational courses for all owners?

Ms. Emily Ugarenko: For all dog owners, yes.

Mr. Michael Coteau: Thank you very much.

MS. LORI GRAY

The Chair (Mr. Peter Tabuns): Our next speaker is Lori Gray, if you would come up. You'll have 10 minutes for your presentation and five minutes of questions. Identify yourself for Hansard and please begin.

Ms. Lori Gray: I'm Lori Gray. I am here today presenting to the committee as an individual, although I am a member of the Dog Legislation Council of Canada and the American Staffordshire Terrier Club of Canada.

I would like to take the next few minutes to explain a pivotal point, a point on which the essence of BSL hinges. There are three named breeds on Ontario's banned list. Under the federal Animal Pedigree Act, to be a purebred dog, they must be identified by a microchip or tattoo and be registered with the CKC or another valid registry. The number of dogs registered by breed each year is thus very easy to obtain. Here in Canada, all three breeds are extremely rare, and the American Staffordshire terrier is one of the rarest breeds in Canada. There are so few Am Staffs in Ontario that I personally know each person who owns one. On average, 10 dogs per year were registered annually in Ontario prior to 2005, when only two were registered.

I have included a chart in your handouts using numbers for 2006 from the CKC showing a typical year's registrations. There were almost 9,000 Labrador retriever pups registered, only 104 Staffordshire bull terriers and 45 American Staffordshire terriers nationwide. The American pit bull terrier is not listed, because they are registered by ADBA and UKC; however, in conversation with the Golden Horseshoe American Pit Bull Terrier Club, it was estimated there were 200 to 300 in Ontario.

"Pit bull" is a slang term for a shape of mongrel dog. Until breed banning became an issue, it really didn't matter what people called their mutt. Playing "guess the mutt" down at the pound was fun and entertaining, but now that a dog's life is on the line, it isn't so much fun anymore.

How does one define "pit bull," "husky" or "shepherd"? Well, the short answer is, you can't. Just as two people looking at an abstract painting see different things, different people are going to see different characteristics in a dog. This is true for everyone from animal control officers to dog owners to victims. Even dog judges will tell you that nobody is an expert nor capable of determining the lineage or breed makeup of a mixed-breed dog.

There are two kinds of dogs: purebreds and the rest. If a dog is purebred, there's no guesswork involved. He's marked and registered. If he is a mix, there is only guesswork involved. I have included in your handouts pictures of nine different dogs all determined to be pit bulls in Ontario. You can see how these dogs don't resemble each other, and they also don't resemble any of the banned purebreds.

In response to an election survey we sent out in 2007, former Attorney General Chris Bentley answered a question about the ban as follows: "Courtney Trempe died" as a result of an attack by a bull mastiff, "an 11-year-old girl suffered serious injuries after she was attacked by two of her grandmother's Dogue de Bordeaux in Uxbridge ... a 25-year-old man was seriously injured after he was mauled by pit bulls.... These incidents, and others like them, convinced us that provincial action was necessary to protect the public from dangerous pit bulls." You see, even former Attorney General Chris Bentley believes mastiffs are pit bulls.

In section 19 of the 2005 DOLA, veterinarians are named as experts able to determine whether a dog is a pit bull. I have brought with me today two letters from two different veterinarians, Dr. Lloyd Fisher and Dr. Pauline Van Veen. Here's an excerpt:

"Not only did the OVMA advise against attempting breed identification of mixed-breed dogs; it is an impossible position for veterinarians to be in. There is no way to objectively prove a mixed-breed dog's ancestry. Veterinarians have to guess, based on appearance. This puts vets, as health professionals, into a very difficult position, amounting to a conflict of interest. 'Pit bull' is a slang term for a shape of mongrel dog.

"Furthermore, targeting dogs based on appearance is not an appropriate strategy for dealing with dangerous dogs. There is no scientific evidence to support the belief that dogs are dangerous by breed or appearance."

One of the veterinarians, Dr. Fisher, from Barrie, Ontario, has 53 years' experience and stated he has never had one of the banned breeds as a patient. He also commented that there are plenty of people who refer to their dogs as pit bulls and use the names of the pure breeds, but if a dog isn't registered, it is simply a mixed-breed dog.

Very few people understand what "purebred" means. Many people think that if a dog resembles a breed, it is that breed. Many people, including many owners, believe "pit bull" is a breed. Many people own cars, but few people are mechanics. Many people own dogs, but few are knowledgeable about dogs. The facts prove that the purebreds were never the intended targets of this law. It doesn't make any sense to target fewer than 500 dogs in the entire province.

One of the most common types in Ontario is the short-haired mutt. These dogs are sometimes referred to as pit bulls, not only by the animal control officers but even some owners and members of the public. One of the most common misconceptions is that the short-haired mutt, or pit bull, is genetically related to any of the named purebreds. I think it's safe to say that this is neither mathematically nor physically possible, especially since people who purchase a rare breed for a significant amount of money are not going to let it run loose and engage in uncontrolled breeding.

When other, more popular breeds are mixed and create what we have fondly known as Heinz 57 for generations, the genetics remain a mystery. Genetics are not easy to predict. Ask any long-time breeder how easy it is to

breed for a specific trait. You will get a long answer, and in the end you will know it is not easy at all.

Along with the misconception that the short-haired mutt is related to the purebreds, which I think we can agree is highly unlikely, there are myths describing characteristics among the short-haired mutts. What I mean by this is you will often hear that pit bulls exhibit this or that behaviour or tendency. How can a large group of mutts of unknown lineage exhibit any common traits? If you cannot determine the known genetics, then you are simply guessing, based on a belief that breed and looks mean the same thing and that all dogs of a breed are alike. With pet dogs, which is what the majority are, there is more difference among individual dogs within a breed than there is between breeds. Dogs are more like each other than they are different by breed.

Here is what we know for sure. There is no scientific evidence to support that breed makeup of mixed-breed dogs can be determined. There is no scientific evidence to support that any of the three named purebreds is different from any other type of dog. Urban legend and myth have taken a strong hold, and that is difficult to erase, even when presented with scientific evidence to refute it.

The ban was based on the assumption that bites and attacks are caused by strange dogs owned by a subculture of criminals. This is simply not true. From a report to the board of health on September 2, 1998, by the late Sheela Basrur, then-medical officer of health, according to the former city of Toronto records, more than half of all dog bites occur on the dog owner's property; more than two thirds of biting incidents on public property occur while the biting dog is on leash; more than 85% of the victims know the dog that bites them; more than two thirds of all bite victims are adults; and nearly two thirds of all children get bitten as a result of playing with a dog or as a result of teasing the dog or disturbing it while it's eating.

It is quite rare to encounter a loose stray or violent dog owned by a person wishing to intimidate. In actual fact, it is the undertrained, undersocialized family pet that is commonly the culprit. Novice owners are often to blame in not recognizing canine behaviour and in lacking the skills to problem solve and intervene at an early stage.

0940

DOLA, as it was, was a good piece of legislation and I support the stiffer penalties that are incorporated in the 2005 amendments, including jail time. There is recent evidence that DOLA, as it was, works. In the case of Kent versus Laverdiere, 2011—

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Lori Gray: —thank you—dog breeder Heather Laverdiere was charged under DOLA when her grandchild was mauled by her non-pit-bull-type dogs. A significant cash settlement ordered her to pay restitution to her granddaughter for injuries sustained during the attack.

The 2005 DOLA amendments created a climate of fear and oppression when there should be fair and equal treatment under the law for all citizens. There are many factors that lead to a dog-bite incident, but breed is not one of them. If the desire to act preventatively exists, Calgary is a proven winner. It is also worth mentioning that even though DOLA has been in place since the late 1800s, it was rarely used until the breed discriminatory portion was added. Now it is being actively used and applied.

The dogs targeted under this law are family pets. They're just dogs, not some hyper-exaggerated mythical creature with super powers.

The most glaring flaw with this legislation is that, to date, scientists agree there are no dangerous—

The Chair (Mr. Peter Tabuns): Thank you, and I'm sorry to say I'm going to have to go to questions. Mr. Hillier.

Mr. Randy Hillier: Thank you very much, Lori. On your presentation, I hope every member of this committee has looked at your presentation and the pictures in it, along with the presentation from the previous presenter, Emily, and the pictures in it, and seen what a wide spread of dogs are captured under this legislation.

Ms. Lori Gray: Absolutely.

Mr. Randy Hillier: And I know everybody who was involved in bringing in that original Bill 132 had a mental image in their minds of the pit bull, the dog that was going to be banned in Ontario. They had an image of the snarling, growling, chained-up, aggressive dog. And then you take a look at the pictures and see the dogs that have been captured, the ones that have been euthanized, the ones that have had to be exported, to be rescued out of the province.

The consequences that have happened to people—again, there's that mental image that legislators may have had of that aggressive dog and that criminal-type person who may own the dog or the irresponsibility of it, and again we see that who is actually being affected by this legislation is not that mental image whatsoever. It's everyday people and it's any and every Heinz 57 dog in the province that isn't long-haired that is subject to this. Looking at these pictures, especially number 8 and number 9, for anybody to think—

Ms. Lori Gray: But it's a subjective situation, and the people who are doing the identifying don't necessarily have training in dog behaviour or dog breeds, so it's left up to opinion. I'm sorry, but when it is opinion and your dog's life, your family member's life, is on the line and it's up to you to prove that it's something that doesn't even exist, it's insane.

Mr. Randy Hillier: And under breed-specific legislation, it can be no other way. It must be subjective. It cannot be scientific or objective.

Ms. Lori Gray: And the dogs that you can prove what they are, the registered purebreds, there's less than 500 in the province. There's two—in fact, I have an interesting number that was given to me this morning. Toronto Animal Services has 177 Staffordshire bull terriers licensed and 105 Am Staffs, but there's only one in Toronto. That just goes to prove to you right there, misidentification is a huge, huge, pivotal problem.

Mr. Randy Hillier: Thank you very much, Lori.
Ms. Lori Gray: Thank you.
The Chair (Mr. Peter Tabuns): Thank you.

MS. SELMA MULVEY

The Chair (Mr. Peter Tabuns): We'll go on, then, to our next presenter. Selma Mulvey, would you please come forward. Selma, as you know by now, you have 10 minutes to present. There will be five minutes of questions. Please state your name for Hansard and then please begin. Thank you.

Ms. Selma Mulvey: My name is Selma Mulvey. I'm a member of the CKC and the DLCC. I've blogged at Caveat since 2005, and I'm a columnist for Cottage Dog magazine. I'm here today as an Ontario dog owner.

My initial reaction to this legislation was that you couldn't do that to people. Eight years later, that conviction is intact.

Many dogs have suffered, but overall it's people who are being affected in Ontario. Dogs are just a "tool in the toolbox," to quote a former Attorney General.

Dog ownership is universally legal, albeit regulated much like automobile ownership. Laws should govern human behaviour as precisely as possible. The trick is to control the core group without unduly curtailing the freedoms of everyone else. With but one exception, this law has only affected everyone else: people with unoffending mixed-breed dogs. That's because there's no such thing as a "pit bull."

I will tell you a few stories about what's going on out there. I could tell you many more. Keep in mind that people love their dogs, whether they own a fancy purebred or the ubiquitous short-haired mutt. One's own is always the most beautiful dog in the world. These cases involved family pets that hadn't bitten or attacked anyone, although in one case that was rumoured. With my handouts in the middle are pictures of these dog owners.

Madonna English is a registered nurse who contacted me in 2009. Her partner, Rick, also a health care worker, was walking two puppies when Mississauga animal services charged him with owning illegal "pit bulls." Fortunately, Donna had proof that their parents were not on the banned list. Thanks to Councillor Carolyn Parrish, this was handled behind the scenes.

A registered nurse in Ontario can lose the right to practise if convicted of an offence where jail time is a possibility. In this case, owning puppies of the wrong colour made jail time a possibility.

I got a call last fall from some people from Montreal who were visiting their son. They said they'd been hassled by animal services in Brampton about owning an unmuzzled "pit bull," but they made a fuss on the street, walked away and returned to Quebec the next day with their dog.

Canadians have a right to freedom of movement within Canada, yet with no warning at the border, Ontario prohibits entering the province with a mongrel dog in tow.

I met Chris Blaides and his dad, Anthony, last summer. Their gate was open, and their two dogs ended up at Toronto Animal Services North, threatened with imminent death as illegal "pit bulls." They'd allegedly bitten another dog, but to date there has been no proof of that. Chris had taken his two baby puppies to TAS in 2008 and licensed them as American bulldog mixes, which is how he bought them. He still has the original paperwork, yet last summer his dogs came up as "pit bulls" in the system. Had he licensed them as "pit bulls" in 2008, they would have been seized.

Prominent American bulldog judge Robert Martin met us at the facility to assess the dogs. In Robert's written opinion, the dogs did not have the characteristics of American bulldogs but also did not have an appearance that was substantially similar to any of the breeds banned in Ontario.

Chris had a letter from his vet saying they were not "pit bulls." TAS remained adamant that the dogs had to die. Our lawyer said that if they won in court, the crown would appeal, and if they lost, there would be costs which could be $50,000 to $100,000. The Blaides family had to allow their beloved pets to be killed because they didn't have $100,000 to fight a single animal control officer's incorrect and biased identification of their dogs. That is what it costs taxpayers every time the crown tries to prove that an unoffending mutt is a "pit bull."

Canadians have a charter right to a fair trial and a presumption of innocence. This law presumes guilt and gives no direction on how to prove your dog is not a breed that does not exist. There is no provision for an appeal process to dispute the opinion of a peace officer, which, in Rogier v. Halifax, the Supreme Court of Nova Scotia found unfair.

Despite many legal precedents stating that animal control officers cannot qualify as experts in court, this law allows them to identify people's pets as "pit bulls" and kill them without a hearing.

Danny Truong contacted me in December 2008. When his puppy Bowser was eight months old, Danny took him to a neutering clinic. They found Bowser too exuberant to handle, phoned Mississauga animal control and reported Danny for owning an illegal "pit bull."

At his first court appearance in January 2009, the justice of the peace said, "This is a very serious crime, sir." That day in court, we heard about drinking and driving, theft, breach of probation and more, but the judge saw fit to point out that owning a short-haired mutt was the only serious crime that day.

0950

In January 2011, when we finally got to trial, the crown reviewed our expert evidence and agreed that Bowser was not a "pit bull." Danny was overcome when he realized he could keep Bowser, after two years of living in fear for his pet's life.

How is treating people this way improving public safety? Why are we wasting people's time and money and teaching them to distrust authority? What is the message we are sending to new Canadians, who come here for a better life?

Simona Hoskins contacted me just a few weeks ago. Her dog got out of the office when a door was left open. Frantic, she called TAS for days until she found Missy on the website. They said, "Oh, that's your dog? She's so sweet. Come and get her." When Simona arrived at TAS Etobicoke-East Mall, she was met by a supervisor who told her she owned an illegal "pit bull" that had to die. With the help of a lawyer, Simona was able to get Missy released and they both flew to Edmonton on April 12. Incidentally, she had no trouble licensing her dog as a lab-shepherd type out there. People there didn't say anything about "pit bulls."

Simona wanted me to tell you she is an orphan who grew up on the streets of Romania. She came to Canada in 1992 and is proud to be a Canadian, working and paying taxes. She's left Ontario to save her dog's life, but she is not going to let this go. Based on what I've seen, I believe her. So Ontario has lost another honest, hard-working taxpayer, because, make no mistake, dogs are family.

Canadians are protected against self-incrimination, yet Simona had to sign a paper saying Missy was an illegal "pit bull" or they wouldn't give her back.

There is a commonality to these stories. Most of the people captured are first-time dog owners. We all make mistakes; that's how we learn. A mistake such as having your dog bolt out the door shouldn't result in an automatic death sentence.

DOLA was ignored for years, but since 2005 it has been an all-out witch hunt. Even though no peace officer, shelter, pound, rescue group or kindly stranger must decide if a dog is a "pit bull," they all do it, all the time.

As a dog owner, I want negligent people shut down, because they cause anti-dog sentiment. I get that not everyone loves dogs as much as I do. It's their right to feel that way.

I believe that leashing in public is the single most effective means of preventing negative encounters, but more education is needed. I see all kinds of splashy ads for gambling, but I've seen nothing about safety around dogs, not even a notice in utility bills telling people to ask before touching a dog.

I'd like to see mandated training in the case of nuisance owners, but remember, dog training is an unregulated industry. Anyone can hang out a shingle. Some popular TV shows use harsh, outdated methods which scientists oppose because aggression breeds aggression.

We need a publicly accessible provincial bite database so we can measure our progress.

This law makes owning a dog probable cause for warrantless entry and search and seizure in public. It gives some dog owners fewer rights than others for superficial reasons. It puts the burden of proving an impossible negative on to a defendant. It takes good dogs out of good homes and kills them.

Like most Canadians, I am liberal in outlook. There is nothing remotely liberal about the "pit bull" ban. It's time to right the wrongs, to pass Bill 16.

In order to build a culture of responsibility, you have to treat people as responsible. Raise the bar and people will rise to meet your expectations. It's not about the shape or colour of the dog; it's about the behaviour of the owner.

I applaud the willingness of all three parties to work with the experts to fix this mess. I'd like to especially thank Randy Hillier, Cheri DiNovo and Kim Craitor for standing up for the responsible dog owners of Ontario who want to see an end to this senseless discrimination.

I have a couple of housekeeping points. There are a couple of errors in the bill. "Pit bull" is still in the definitions, and there's a paragraph at the end about the Lieutenant Governor's right to legislate around "pit bulls" on unincorporated territory. Both of those references should be removed.

We've been showing a movie called Beyond the Myth. It's a documentary—

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Selma Mulvey: Thank you. It's a documentary about how people are affected by BSL. We have the rights to show the movie in Canada. The producer will send any politician a free copy of the movie on DVD. So if anyone would like a copy of that to watch at home, a picture is always worth a thousand words, as you know.

To the wonderful transcriptionists, if possible, please put quotation marks, single or double, around "pit bull" where I use it, since it is a slang term.

With that, I conclude my remarks. I'm amazed I made it.

The Chair (Mr. Peter Tabuns): Thank you very much. Questions go to the third party. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Selma, and thank you, really, to the Dog Legislation Council of Canada and to everyone who came and deputed here. Our heartfelt condolences go out to all of those affected by this law. I mentioned before about 1,000—conservative estimate—dogs that have been euthanized not because of what they did but because of how they looked. Clearly from the pictures here, how they looked is all over the map and just left up to individuals to assess, which should never be the law.

I also note that Cesar Millan was prevented from bringing his dogs, the foremost dog trainer in the world—

Ms. Selma Mulvey: Junior.

Ms. Cheri DiNovo: Junior and Daddy. They were not allowed into the province when he came and filled Rogers Centre because they are substantially similar.

I also have a substantially similar dog, an English bull terrier. I suspect the reason that she's not dragged off the highways and byways is because I'm an MPP.

Ms. Selma Mulvey: Oh, you have the Don Cherry dog, except Don Cherry actually had an Am Staff at the time.

Ms. Cheri DiNovo: Exactly. Just to get back to some of the stories, and you've been witness to some of the horrors, my suspicion is, and I just wanted your input on this, that not all dogs that look substantially similar have been targeted. Obviously if they did, there wouldn't be

time to euthanize them even if they kept it going 24/7. Obviously some people get targeted by this law and other people don't. Is there any similarity between the ones that get targeted and the ones that don't get targeted under this law?

Ms. Selma Mulvey: I'm finding a lot of new Canadians are being targeted, and if I may speak frankly, I'm finding a lot of people from visible minorities and people of low income are being targeted. As I like to say, they're not driving down Russell Hill Road looking for off-leash Staffords. You can infer from that what's going on. For a lot of the people, English is a second language. Actually, I've had several people from Montreal. I misplaced those people's names because it was just a one-phone-call thing. But I've had three or four calls from people from Quebec coming to Ontario and getting harassed when they never even thought their dog was a "pit bull." It's a Lab mix, you know?

Ms. Cheri DiNovo: Right.

Ms. Selma Mulvey: I don't know what we're trying to achieve here, but the only thing we're achieving is discrimination. We're certainly not limiting dog bites. We're not targeting a breed, because they're so rare. Most people have never seen them. So I don't know what we were trying to achieve at the time.

Ms. Cheri DiNovo: Right. Also the cost of—say you are one, you're low income, you're a new Canadian, you don't know what's going on. Your dog is taken out of your backyard, which we know has happened. You come home, and the dog is not there. You phone the local agency, whatever it may be, and sure enough they have your dog and it has been designated a pit bull. What is the process then? What is the cost to the individual to have to prove otherwise?

Ms. Selma Mulvey: Well, they have to have a lawyer, because this legislation—to say it's Orwellian is to be kind. So you need a lawyer with this. I've been able to build a little stable of wonderful lawyers who are against the legislation who are helping people at a tremendous discount, but it's still a lot of money. You know how much lawyers make. So they're looking at, oh, $5,000 for a lawyer. Then, if they lose, of course with the costs, they're going to be on the hook for the costs. It's expensive. That's an amazing deal, because that's like 10 hours of lawyers' time. You know how much lawyers earn.

Ms. Cheri DiNovo: So you're basically guilty until proven innocent with this law?

Ms. Selma Mulvey: Oh, you're definitely guilty, yes. The entire law is completely stacked against a dog owner and it gives an inordinate amount of power to an untrained animal control officer. That officer basically is judge, jury and executioner if the people don't have the money. They can't be accredited as experts in court, but they can grab people's dogs off the street and kill them if they're in that kind of mood that day. The worst part is that under this legislation no one is obligated to do this. This legislation is optional, but everyone is just gung-ho, straight ahead, "We're all huntin' for pit bulls now." I don't believe that was the intent, but it was the inevitable outcome.

Ms. Cheri DiNovo: Right. We've heard of the kind of grudge, neighbour-to-neighbour stuff that this has engendered. I've heard conservatively around 1,000 dogs have been euthanized, and I hold that up against the 100 sled dogs. They just had criminal injunctions against the chap who killed 100 sled dogs, but here we've euthanized about 1,000 dogs, we think.

Ms. Selma Mulvey: That would actually be very conservative because in the Toronto Sun in 2007 Toronto had killed 500 alone by then. In 2007, 500 dogs were reported by Toronto Animal Services as having been killed due to the ban. So in eight years—well, seven years since enactment—you can figure it's probably a lot higher.

Ms. Cheri DiNovo: So 1,000 dogs killed is pretty conservative.

The Chair (Mr. Peter Tabuns): Thank you.

Ms. Selma Mulvey: I'd say that's very conservative, but they don't really keep the records that way.

The Chair (Mr. Peter Tabuns): Selma, thank you very much.

Ms. Selma Mulvey: Sorry. Yeah, I can talk.

The Chair (Mr. Peter Tabuns): We've run out of time. We've got to go on to our next presenter, who's on the line.

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DR. BONNIE BEAVER

The Chair (Mr. Peter Tabuns): I'll call on Bonnie Beaver to connect in. Bonnie, I don't know if you can hear me.

Dr. Bonnie Beaver: Yes, I can. Thank you.

The Chair (Mr. Peter Tabuns): Excellent. You have 10 minutes for your presentation, and up to five minutes have been allocated for questions from committee members. Please state your name for Hansard, and you may begin.

Dr. Bonnie Beaver: Thank you, Mr. Chairman and honourable committee members. I am Bonnie Beaver. I appreciate the opportunity to address your committee regarding Bill 16. I'm a veterinarian with extensive experience in animal behaviour, including dog aggression. I am a founding diplomate of the American College of Veterinary Behaviorists and currently serve as its executive director.

I was encouraged to address your committee by multiple people from Ontario because of my expertise in dog aggression. It is my intent to briefly present some of the science about dog bites, leaving time for questions from committee members. Additional specifics, as well as the references for them, can be found in the handout that I have provided.

There are three primary points I wish to make, with details presented in the handout:

(1) Pit bull dogs, regardless of how they are defined, are not the dogs reported in Canada for inflicting fatal or

even severe bites. According to the most recent study for the years 1990 through 2007, huskies and husky crosses are. Huskies were involved in 32 of 48 fatal attacks. Interestingly, this was also true in 2004 when the original bill was considered. However, huskies were not included on the Ontario list of bad dogs. Neither were German shepherds, cocker spaniels, Rottweilers, or golden retrievers, the top four breeds involved in dog-bite injuries in Canada at that time.

A 2008 study done by the University of Pennsylvania School of Veterinary Medicine looked at breed differences related to aggression. They concluded that pit bull dogs were more likely to be aggressive, but only to unfamiliar dogs. They were not more likely to be aggressive to people; dachshunds, chihuahuas and a few other breeds, however, were.

Bite statistics are generally unreliable because dog bites are not a reportable condition and the majority of people receiving a bite do not seek medical care. What statistics do get published tend to reflect dog breed popularity, and we know that popularity changes over the years. In general, if there are more dogs of one breed, they are more likely to be represented in the statistics in higher numbers than are dogs which are relatively scarce. Dogs that bite people are more likely to be small breeds, but big dogs are more likely to do damage if they do bite. Thus, it should be expected that any hospital-generated data will suggest big dogs are more dangerous.

(2) Laws that ban certain breeds do not reduce the incidence of dog bites and therefore do not protect citizens any better than no law at all. Your committee has already heard testimony supporting that in the cities of Winnipeg and Calgary, as well as in your own province.

The prospective study done in Scotland compared mammalian bite data for the two months prior to the implementation of the Dangerous Dogs Act, and then again for two months three years later. Researchers reported that in both years, there were 99 patients presented for bites caused by dogs. Prior to the implementation of the law, there were three attacks by pit bull dogs. Three years after implementation, there were five pit bull attack victims. Their top three biting breeds prior to the UK pit bull ban were German shepherds, mixed breeds and collies. After the ban, it was mixed breeds, German shepherds and Dobermans.

The city of Denver, Colorado, imposed a ban on pit bull dogs in 1989, yet between 2005 and 2008 the city euthanized 1,667 pit bull dogs when there should not have been any pit bulls in the city at all. As happened in your province, the incidence of dog bites in Denver did not decrease significantly.

European countries have replaced pit bull bans with dangerous-dog laws that cover all breeds of dogs. This year, in the United States, Ohio became the last state to overturn their law that defined pit bulls as dangerous, because it wasn't working. There are several other factors related to why breed bans do not work mentioned in the handout.

(3) Dog behaviour is significantly influenced by owners, and certain owner-related factors are known to be associated with aggressive dogs. A certain segment of society will own a dog because it is considered to be an outlaw, part of the concern in Ohio. The amount and type of socialization a puppy undergoes is one aspect that affects how it will relate to people when the dog gets older. It has been shown that biting dogs are more likely not to be licensed, not to be currently vaccinated, to be intact male dogs and to be kept chained in a yard. In other words, irresponsible owners can prime their dogs to become problems.

The saying goes that no child should ever be left unsupervised with a dog, because a child's behaviour can also be associated with dog bites. Children under the age of 12 represent the vast majority of dog-bite victims, especially boys between five and 11 years. You only have to watch a boy of this age in play to understand how their animated, loud play could arouse a dog.

In summary, most dogs are important family members, but any dog can bite. It is better to have laws that regulate issues associated with dog bites that will apply equally to all dogs, rather than to try and single out certain breeds.

Mr. Chairman, I'm sure committee members are now very tired of hearing about this issue, but I am happy to respond to any questions.

The Chair (Mr. Peter Tabuns): Ms. Beaver, thank you very much. I'll turn it over to the government for questions.

Mr. Lorenzo Berardinetti: Thank you, Mr. Chair.

Thank you for your presentation here today. I just have a couple of quick questions. There is a model in Calgary, here in Canada—Calgary, Alberta—that focuses on training and on education as well. I don't know if you're familiar or not with this legislation in Calgary, but would you support the thesis or the idea that dogs have to be educated? I mean, owners have to be educated and dogs have to be trained properly.

Dr. Bonnie Beaver: Absolutely. The Calgary model has served that city very well. In fact, one of the references that you have has my name as the lead author, but it was a community approach to dog-bite prevention done by the American Veterinary Medical Association. I happen to chair that task force, and the outlined program is very similar to the one used in Calgary.

Mr. Lorenzo Berardinetti: Thank you. My next question is, do you think that a pit bull attack would be more severe than an attack by another breed of dog?

Dr. Bonnie Beaver: First of all, a pit bull is not a breed in itself. There are about 13 purebred breeds with physical characteristics that would fit into that particular pattern. In general, it is not purebred dogs that are the problem; it's mixed dogs that have a physical appearance that you are interested in. Because they are a big dog, the seriousness of the bite certainly is going to be worse than it would be if it was a dachshund, for example.

Mr. Lorenzo Berardinetti: Thank you. An earlier presenter provided us with photographs of purebred examples, the American pit bull terrier, the American Staffordshire terrier and the Staffordshire bull terrier.

Those are examples of purebreds. Would you agree with providing those dog owners with special training for those dogs, those three purebreds?

Dr. Bonnie Beaver: Again, I want to emphasize, it's rarely the problem with the purebred-dog owner that is of concern. It really centres around the appearance of dogs that have similar physical characteristics. Purebred owners, simply because of the amount of money they paid for their animal, are going to be very conscientious owners. It's the unconscientious owner, of any breed of dog, that is more likely to have a dog that gets into trouble.

Mr. Lorenzo Berardinetti: Thank you. Those are all my questions, Mr. Chair.

The Chair (Mr. Peter Tabuns): Okay. Thank you all.

Before this meeting wraps up—that concludes the business in terms of presentations—I want to remind the committee that any proposed amendments to the bill should be filed with the committee clerk by 12 noon on Monday, May 7, 2012. Please contact legislative counsel for assistance in drafting amendments. Clause-by-clause consideration of Bill 16 is scheduled for Wednesday, May 9, 2012.

The committee is adjourned to the call of the Chair. Thank you to everyone who came and presented today.

The committee adjourned at 1011.

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Legislative Assembly
of Ontario
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Assemblée législative
de l'Ontario
Première session, 40e législature

Official Report of Debates (Hansard)

Wednesday 9 May 2012

Journal des débats (Hansard)

Mercredi 9 mai 2012

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Peter Tabuns
Clerk: Tamara Pomanski

Président : Peter Tabuns
Greffière : Tamara Pomanski

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 9 May 2012

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 9 mai 2012

The committee met at 0900 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order.

The first item of business is the subcommittee report dated May 2, 2012, with respect to Bill 52, An Act to amend the Building Code Act, 1992 with respect to the height of wood frame buildings. Could I have a member of the committee read the subcommittee report?

Mr. John Vanthof: Your subcommittee on committee business met on Wednesday, May 2, 2012, to consider the method of proceeding on Bill 52, An Act to amend the Building Code Act, 1992 with respect to the height of wood frame buildings, and recommends the following:

(1) That the committee meet for the purpose of holding public hearings on Wednesday, May 30, 2012, in Toronto at 9 a.m. The start time may be moved to 8 a.m. on Wednesday, May 30, 2012, if necessary.

(2) That the clerk of the committee post information regarding the hearings on the Ontario Parliamentary Channel, Legislative Assembly website and on Canada Newswire.

(3) That the clerk of the committee arrange for the committee meetings to be streamed.

(4) That the clerk of the committee arrange for witnesses to present via Skype or teleconference, if requested.

(5) That interested people who wish to be considered to make an oral presentation on Bill 52 should contact the clerk of the committee by Wednesday, May 23, 2012, at 5 p.m.

(6) That, in the event that all witnesses cannot be scheduled, the clerk of the committee should notify the subcommittee.

(7) That, in the event that we receive requests to appear following the deadline, the clerk of the committee shall accommodate the requests, if possible.

(8) That the length of presentations for witnesses be 10 minutes, and up to five minutes for questions on a rotational basis.

(9) That the deadline for written submissions be Monday, May 28, 2012, at 5 p.m.

(10) That, for administrative purposes, the deadline for filing amendments to the bill with the clerk of the committee be Monday, June 4, 2012, at 5 p.m.

(11) That the clerk of the committee provides copies of the amendments received to committee members by Tuesday, June 5, 2012.

(12) That clause-by-clause consideration of the bill be scheduled for Wednesday, June 6, 2012. If required, there will be 10 minutes allotted for opening statements to be divided equally between all three parties.

(13) That the research officer provides the committee background material on Friday, May 25, 2012. The background material will discuss how other Canadian jurisdictions have handled the issue within their building codes, and whether the issue has been dealt with previously in Ontario.

(14) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

I move that this report of the subcommittee be adopted.

The Chair (Mr. Peter Tabuns): Any discussion?

All those in favour, please raise their hands? Opposed? I declare the motion carried.

PUBLIC SAFETY RELATED TO DOGS STATUTE LAW AMENDMENT ACT, 2012

LOI DE 2012 MODIFIANT DES LOIS EN CE QUI A TRAIT À LA SÉCURITÉ PUBLIQUE LIÉE AUX CHIENS

Consideration of the following bill:

Bill 16, An Act to amend the Animals for Research Act and the Dog Owners' Liability Act with respect to pit bulls / Projet de loi 16, Loi modifiant la Loi sur les animaux destinés à la recherche et la Loi sur la responsabilité des propriétaires de chiens en ce qui a trait aux pit-bulls.

The Chair (Mr. Peter Tabuns): We will now move to clause-by-clause consideration of Bill 16, An Act to amend the Animals for Research Act and the Dog Owners' Liability Act with respect to pit bulls. The title is postponed until all other sections have been considered. Also, I've put the question on consecutive sections that have no amendments together. Members may request to vote on each section individually.

Are there any comments or questions before we begin? Mr. Hillier, I understand that you wanted to make a comment.

Mr. Randy Hillier: Yes.

The Chair (Mr. Peter Tabuns): If you would.

Mr. Randy Hillier: I have a brief letter here that I've received from Kerry Vinson, who is an animal behaviour consultant.

The Chair (Mr. Peter Tabuns): Can we have unanimous consent to read this into the record? Granted.

Please proceed.

Mr. Randy Hillier: Thank you very much, Chair.

This is a letter from Kerry Vinson, an animal behaviour consultant. It starts, "To whom it may concern," which of course is this committee.

"As I" was "unable to be present on either of the dates set aside for the presentations to the parliamentary committee reviewing the breed-specific legislation amendments to the DOLA, Mr. Hillier has asked me to put in writing my concerns about this legislation. First and foremost, it's important to recognize that the subject of dangerous dogs and public safety was very thoroughly addressed by a formal provincial inquest (the Trempe inquest) in 1999. After much time, effort (and taxpayer expense) the inquest jury formulated 36 recommendations which were aimed at reducing dog aggression in Ontario. The Chief Coroner at the time (Dr. Barry McLellan) designated me," Kerry Vinson, "as an 'expert witness'" to that inquest "and the jury incorporated many of the principles outlined during my testimony in their final recommendations. It is important to note that not one of these recommendations involved any type of breed ban, or the singling out of dog breed(s) as primarily responsible for the problem of canine aggression and dog bites....

"Unfortunately, the provincial government has since failed to put any of the crucial recommendations of the Trempe inquest into effect, instead choosing to pass the BSL amendments in the middle of the next decade. The rationale behind this legislation is completely unscientific and is not supported by any valid research into dog behaviour; instead it was implemented using sensationalism, scare tactics, and by promoting public hysteria. By ignoring the recommendations of every bona fide expert on dog behaviour who testified in the so-called hearings on BSL, the provincial government pushed through this totally specious legislation. As I became personally aware during my testimony (again as a designated expert) in the subsequent 2006 court challenge to BSL, the Attorney General's office had absolutely no interest in formulating effective legislation based on the facts of canine behaviour. As a result, the number of dog bites in Ontario has remained fairly constant since the implementation of BSL and the people of this province are not any safer in this regard, it's just that the perpetrators of these bites are now other dogs that are not members of the breeds identified....

"With this in mind, I would urge the committee to recommend that BSL be either suitably modified or completely rescinded, and replaced with an efficacious policy that targets irresponsible dog owners who allow their dogs to engage in aggression. While the injustices that were permitted to occur to responsible owners and their dogs over the last several years (as a result of the government's misguided policies) can never be rectified, this would at least insure that future such incidents will not recur, and that public safety may actually be enhanced."

That was by Kerry Vinson, Animal Behaviour Consultants.

Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hillier.

We'll proceed. Are there any comments, questions or amendments to any section of the bill and, if so, to which section beyond the amendments that have already been submitted? There are no other amendments that are going to be brought forward? Fine.

We will go to section 1, Animals for Research Act. We have no amendments here. Shall section 1 carry? Carried.

Section 2: Ms. DiNovo, you have an amendment?

Ms. Cheri DiNovo: I do. Thank you, Mr. Chair.

I move that section 2 of the bill be amended by adding the following subsection:

"(0.1) The definition of 'pit bull' in subsection 1(1) of the Dog Owners' Liability Act is repealed."

Again, I think this is in keeping with the spirit of the bill. There's no need for breed-specific references in either of the DOLA or ARA, so we've removed references to pit bulls in definitions.

The Chair (Mr. Peter Tabuns): Any commentary, debate? There being none, carried.

Mr. Lorenzo Berardinetti: We will not be supporting that amendment.

The Chair (Mr. Peter Tabuns): Okay, thank you. I'll call for a vote. All those in favour? Opposed? Carried.

Interjections.

Mr. Randy Hillier: Do you get to vote?

The Chair (Mr. Peter Tabuns): Ladies and gentlemen, yes, I do get to vote. Since it's a casting vote and since there is procedure on this, I cannot in fact cast a vote in favour of your amendment, thus the amendment fails.

Mr. Randy Hillier: May I have a comment? I know the vote's already been cast and the same with yours. May I make a comment?

The Chair (Mr. Peter Tabuns): Please.

Mr. Randy Hillier: Just for the committee, it was clearly demonstrated through the committee hearings by all experts that there is no such thing as a pit bull and there is no way to identify a pit bull.

Mr. Mario Sergio: Mr. Chair, with all due respect—

The Chair (Mr. Peter Tabuns): We've had the debate.

0910

Mr. Randy Hillier: Okay.

Mr. Lorenzo Berardinetti: And the vote.

Mr. Michael Coteau: Could I just ask a quick question, Mr. Chair? If there are five voting in favour of it and four—isn't there one vote less? Sorry, I was a bit confused there.

Interjection.

The Chair (Mr. Peter Tabuns): It's four to four, with me being the deciding vote.

Ms. Cheri DiNovo: Point of order, Mr. Chair: Perhaps you can explain, just for those here, why you had to vote the way you do.

The Chair (Mr. Peter Tabuns): I will explain at the end.

Mr. Lorenzo Berardinetti: We voted, with all due respect.

The Chair (Mr. Peter Tabuns): Next amendment, Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 2 of the bill be amended by adding the following subsection:

"(0.2) Clauses 4(1)(b) and (c) of the act are repealed and the following substituted:

"'(b) the dog has threatened a person or domestic animal with serious harm or created the reasonable apprehension of such a threat; or

"'(c) the owner did not exercise reasonable precautions to prevent the dog from,

"'(i) biting or attacking a person or domestic animal, or

"'(ii) threatening a person or domestic animal with serious harm or creating the reasonable apprehension of such a threat.'"

Again, this just adds to the spirit of the bill. "Menace" in the current legislation is not clearly defined; it's open to interpretation. We have chosen to replace it with a more specific definition of a dog that "has threatened a person or domestic animal with serious harm or created the reasonable apprehension of such a threat." It also keeps the emphasis with owner responsibility for not exercising reasonable precautions to prevent the dog from biting or threatening a domestic animal. These clauses are based on the Calgary model that we heard about in the hearings, but adapted to the provincial legislation.

The Chair (Mr. Peter Tabuns): Any debate? Mr. Hillier.

Mr. Randy Hillier: We'll be supporting this amendment. I do believe that the language provides greater clarity and is consistent, again, with what we've heard through the committee process, but it does provide greater clarity to both the judiciary and also to people who would be enforcing this legislation, with less subjectivity in place, in a more objective manner.

The Chair (Mr. Peter Tabuns): Mr. Berardinetti.

Mr. Lorenzo Berardinetti: We do not support the amendment.

The Chair (Mr. Peter Tabuns): Any further debate?

Mr. Randy Hillier: I'll have a recorded vote, Chair.

Ayes

DiNovo, Hillier, Nicholls, Walker.

Nays

Berardinetti, Coteau, Dhillon, Sergio.

The Chair (Mr. Peter Tabuns): As I am required by custom and rule to vote against the change as Chair, I have to vote against that amendment, and thus the amendment fails.

Mr. Randy Hillier: Chair, maybe I could ask that we put a motion on the floor that you not be so conventional today.

The Chair (Mr. Peter Tabuns): The motion is out of order. Thanks anyway.

Amendment 3.

Ms. Cheri DiNovo: I move that section 2 of the bill be amended by adding the following subsection:

"(0.3) Subsection 4(3) of the act is repealed and the following substituted:

"'Final order

"'(3) Subject to subsection (3.1), if, in a proceeding under subsection (1), the court finds that the dog has bitten or attacked a person or domestic animal or that the dog has threatened a person or domestic animal with serious harm or created the reasonable apprehension of such a threat and if the court is satisfied that an order is necessary for the protection of the public, the court may order,

"'(a) that the dog be destroyed in the manner specified in the order; or

"'(b) that the owner of the dog take the measures specified in the order for the more effective control of the dog or for purposes of public safety.

"'Exceptions

"'(3.1) A court shall not make an order under subsection (3) if it finds that a dog, in taking the acts described in that subsection, was,

"'(a) acting to defend its owner from attack or to prevent trespass or vandalism on its owner's property; or

"'(b) being subjected to terrorization'"—I'm not sure that's a word, Mr. Chair, but since the Liberals are going to vote against this anyway, I'll let it stand—"'and reacted in a reasonable manner to defend itself.'"

I would have said "being subjected to abuse."

The Chair (Mr. Peter Tabuns): Do you have any other comments? Debate?

Mr. Randy Hillier: We will be supporting this amendment. Again, I think it is incumbent on us all that legislation is provided and written in a fashion that gives very significant clarity to those who enforce the legislation, and that it not be subjected—the ability to use a subjective view in the enforcement of the act causes problems. We've seen with the present bill that it's worded in such a fashion that it allows for injustice to happen. Let's throw away the partisan cloaks here. Let's make sure, as this bill advances, that at the end of the day both law enforcement and the judiciary have a clear understanding of what the will of the Legislature is and that the legislation addresses that specifically. We will be supporting this amendment. I do hope and trust that

partisanship doesn't enter into the casting of votes any further on this.

The Chair (Mr. Peter Tabuns): Further debate? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: We will not be supporting the amendment.

The Chair (Mr. Peter Tabuns): Any other debate? There being none—

Mr. Randy Hillier: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote called for.

Ayes

DiNovo, Hillier, Nicholls, Walker.

Nays

Berardinetti, Coteau, Dhillon, Sergio.

The Chair (Mr. Peter Tabuns): As required, I have to vote against the amendment, and thus the amendment fails.

We go to amendment 4. Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 2 of the bill be amended by adding the following subsection:

"(0.4) Subsection 4(4) of the act is amended by adding the following paragraph:

"'(2.1) Having a veterinarian licensed as such by the College of Veterinarians of Ontario implant in the dog an electronic identification microchip device recognized by the International Organization for Standardization to monitor the whereabouts of the dog.'"

The purpose of this is that for dogs that have been found to fit the description of "vicious," it allows the court to implant a microchip in the dog that allows for the monitoring of the dog's whereabouts. Currently, every municipality keeps track of its vicious dogs. This amendment would ensure that the microchips that are implanted in dogs are of international standards that can be read by every municipality.

It also opens the possibility of a provincial bite registry. Currently, we would not be able to introduce a bite registry, because it is beyond the scope of the bill and it would also require additional detail to include in the registration. Ideally, though, under a provincial registry we would be able to view when vicious dogs move to different municipalities and search for them in an online database.

The Chair (Mr. Peter Tabuns): Any debate on this? Mr. Hillier.

Mr. Randy Hillier: Once again, we'll be supporting this amendment. I think we've heard again, throughout the public hearings, that additional options—microchipping is one more additional tool and option for society to know and have more details on animals they might want to know about. I'll be interested in seeing the rationale and reason why the Liberals will vote against this amendment.

The Chair (Mr. Peter Tabuns): Any other debate? There being no debate—

Mr. Randy Hillier: A recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote.

Ayes

DiNovo, Hillier, Nicholls, Walker.

Nays

Berardinetti, Coteau, Dhillon, Sergio.

The Chair (Mr. Peter Tabuns): Again, as required by the rules, my ballot is cast against the amendment and the amendment fails.

Next amendment: Ms. DiNovo.

Ms. Cheri DiNovo: I move that subsection 2(2) of the bill be struck out and the following substituted:

"(2) Subsections 4(8), (9) and (10) of the act are repealed and the following substituted:

"'Termination of order

"'(8) If the court has made an order under this section with respect to a dog, other than an order that the dog be destroyed, the owner of the dog may apply to the court to have the order terminated and the court may terminate the order if,

"'(a) no proceeding under subsection (1) has been commenced with respect to the dog since the order was made;

"'(b) the order has been complied with; and

"'(c) it is satisfied, on a reasonable basis, that the dog is no longer a danger to the safety of persons or domestic animals.'"

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Amendment 5: The purpose of this, of course, is allowing an owner convicted under DOLA the opportunity to appeal. If the owner is convicted under DOLA of owning a vicious dog, they should have the opportunity to appeal that conviction after a specified time period to be determined by the court. The owner may have taken part in obedience classes, obtained a CGN certificate or achieved other results. The owner would then appear before a panel of experts. It would encourage people to be better owners instead of just being punitive. I believe that makes some sense, both for the protection of humans and animals.

I would just add my voice perhaps to that of the Progressive Conservatives to my literal and figurative right and appeal to the Liberals to vote on their conscience and not along partisan lines. In particular, I would ask the member Lorenzo Berardinetti, who seems to be so concerned about elephants, that perhaps he might be concerned about other animals as well.

The Chair (Mr. Peter Tabuns): Further debate? Mr. Hillier.

Mr. Randy Hillier: Yes. We'll again be supporting this amendment. I think we can clearly see that what's happening today in this committee in this clause-by-

clause hearing is that the Liberals are not serious about this legislation, and they're not serious about making good law in this province. They're more interested—

Interjection.

Mr. Randy Hillier: No, no—more interested in upholding party lines. I guess that's why the member for Glengarry–Prescott–Russell was subbed off this committee earlier, who indeed supported this bill at second reading. Now the party has subbed him out. Let's get with it, fellas. This is legislation that will impact the lives of the people in this province, the people that we represent. We ought to be doing something more than just representing our parties here when we're crafting up legislation.

Interjection.

The Chair (Mr. Peter Tabuns): Would you like to speak to this matter, Mr. Dhillon?

Mr. Vic Dhillon: No.

The Chair (Mr. Peter Tabuns): Mr. Nicholls.

Mr. Rick Nicholls: Thank you very much, Mr. Chair. The apparent attacking of both sides—I just have one question for the party opposite me. I would ask that they would perhaps give us an explanation as to their reasoning as to why they're not in agreement with the amendments that are being made. A no simply doesn't give us any direction. It gives us the opportunity to think that perhaps they're just dead set against. I'd like to give them the opportunity to explain to us what their rationale is for voting no against these, we believe, excellent amendments to this particular bill.

The Chair (Mr. Peter Tabuns): Is there any further debate? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: At the end of this session, I'll explain why. But at this point, we do not support this amendment.

The Chair (Mr. Peter Tabuns): Okay.

Mr. Randy Hillier: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

DiNovo, Hillier, Nicholls, Walker.

Nays

Berardinetti, Coteau, Dhillon, Sergio.

The Chair (Mr. Peter Tabuns): My casting vote has to be against the amendment; thus, it fails.

We go to amendment 6. Ms. DiNovo.

Ms. Cheri DiNovo: I move that clause 19(a) of the act, as set out in subsection 2(6) of the bill, be struck out.

Again, this removes the term "pit bull" from this section of the bill. We have removed any reference to specific breeds under DOLA. In this section, the act states that, "A document purporting to be signed by a member of the College of Veterinarians of Ontario stating that a dog is a pit bull within the meaning of this act is receivable in evidence in a prosecution for an offence under this act as proof," and it goes on. We're striking this clause out completely. I know this is in the spirit of the bill that DOLA should apply to all dogs, not specific breeds.

I would just add by way of explanation as well, along the line of some of the concerns that you've heard, that I would hope that the members opposite are representing their constituents. I hope that they are fully aware of the Facebook sites and other sites of their constituents' signatures on petitions for this bill and for amending DOLA. I hope that they would be ready to speak to those constituents about their actions here today.

The Chair (Mr. Peter Tabuns): Further debate? Mr. Hillier and then Mr. Berardinetti.

Mr. Randy Hillier: Once again, we'll be supporting this amendment, and once again I will say to the members opposite in the Liberal Party that we respect your roles here; we respect your constituents. This absolute toeing of the party line and your refusal to improve, or work to improve, legislation before you does a disservice not just to your constituents; it does a disservice to this institution. Man up and vote your conscience.

The Chair (Mr. Peter Tabuns): Mr. Coteau: point of order.

Mr. Michael Coteau: Come on. We're voting on amendments here.

Mr. Randy Hillier: You're voting along party lines.

Mr. Michael Coteau: Chair, you're allowing the party opposite to talk more about why we should—have him focus on the amendment, not on why we should vote a certain way as individuals on this side, please.

The Chair (Mr. Peter Tabuns): Mr. Coteau, I've been through many of these debates on bills, and in the course of debate in committee, people on either side of the aisle have tried to persuade the other side to vote with them. Many times I have tried to persuade the Liberals to vote with me, and contrariwise, Liberals have tried to persuade me to vote with them. I see it as in order to make an argument to bring people over on a vote, so I rule your point of order out of order.

Any other debate? Mr. Berardinetti.

Mr. Lorenzo Berardinetti: We will not be supporting the amendment.

The Chair (Mr. Peter Tabuns): You won't be supporting the amendment?

Mr. Randy Hillier: Recorded vote.

The Chair (Mr. Peter Tabuns): A recorded vote has been requested.

Ayes

DiNovo, Hillier, Nicholls, Walker.

Nays

Berardinetti, Coteau, Dhillon, Sergio.

The Chair (Mr. Peter Tabuns): And by custom, unfortunately, I will be voting against this amendment.

Shall section 2 carry? Carried.

Section 3: There are no amendments. Shall section 3 carry? Carried.

Section 4: There are no amendments. Shall section 4 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 16 carry? Carried.

Shall I report the bill to the House? Carried.

Ms. DiNovo.

Ms. Cheri DiNovo: I just wanted to add a word. Kim Craitor, the member from Niagara Falls, is not present but was a co-signatory of this bill, and I just want to mention his name into the record and thank him for his support.

The Chair (Mr. Peter Tabuns): Thank you, Ms. DiNovo.

Just before we close out, because there will be people who will have questions about how I make decisions on the casting vote, I need to read the notes from our standing orders.

In general, when a committee cannot by a majority decide a question, the Chair has no obligation to decide on the committee's behalf and should avoid doing so. The Chair should vote in any way that extends debate, maintains the status quo—for example, leaves a bill in its existing form—or offers the opportunity for the committee as a whole to further debate and decide the matter.

For those who are not familiar with the way these committees are structured, I, as the deciding vote, follow tradition and the rules. If this bill had a final vote that was tied as to whether the bill would go forward, I would have had to vote, and would willingly have voted, for it to continue to go forward to third reading. That's it.

Mr. Randy Hillier: Chair?

The Chair (Mr. Peter Tabuns): Now, we actually have done our business for the day.

Mr. Randy Hillier: There was one element of our business of the day that has not been completed. That was that the member for Scarborough Southwest said that at the end of this, he would provide the rationale for the Liberal members' voting down every amendment.

Mr. Mario Sergio: Not during the committee.

Mr. Randy Hillier: He said he was going to do it.

Interjections.

The Chair (Mr. Peter Tabuns): Do people want to hear from the member?

Interjection: Yes.

The Chair (Mr. Peter Tabuns): Then we will hear from the member.

Mr. Lorenzo Berardinetti: There is a bill, Bill 132, that was put in place. I, as a government member—I can't speak for all of them—support the original bill. This new bill that was created: We did not vote against sending it to the House; we just voted against the amendments.

So, thank you.

Mr. Randy Hillier: That's a thoughtful reflection on those amendments.

The Chair (Mr. Peter Tabuns): Thank you. This committee now stands adjourned.

The committee adjourned at 0930.

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Première session, 40e législature

Official Report of Debates (Hansard)

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Journal des débats (Hansard)

Mercredi 16 mai 2012

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 16 May 2012

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 16 mai 2012

The committee met at 0902 in committee room 1.

HILI ENTERPRISES LTD. ACT, 2012

Consideration of the following bill:

Bill Pr4, An Act to revive Hili Enterprises Ltd.

The Chair (Mr. Peter Tabuns): Good morning. Will the Standing Committee on Regulations and Private Bills come to order? The items on the agenda are as follows: Bill Pr1, An Act to revive Coutu Gold Mines Limited; and Bill Pr4, An Act to revive Hili Enterprises Ltd.

As Mr. Orazietti isn't here at the moment, we'll start with the second bill, Pr4. Would Ms. Damerla and the applicant come forward? Ms. Damerla, do you have any comments?

Ms. Dipika Damerla: No, thank you.

The Chair (Mr. Peter Tabuns): Okay. Sir, do you have any comments?

Mr. David Hili: No.

The Chair (Mr. Peter Tabuns): And sorry, could you introduce yourself?

Mr. David Hili: Sure. I'm David Hili.

The Chair (Mr. Peter Tabuns): Okay. Are there any other interested parties in the room who want to speak to this matter? None. Any comments from the government?

Mr. Michael Coteau: No comments.

The Chair (Mr. Peter Tabuns): Other questions from committee members?

Mr. Randy Hillier: Can we just take a couple moments so I can actually—I was prepared for the first private bill, but not for the second one. I haven't read anything on it.

The Chair (Mr. Peter Tabuns): I will ask—

Mr. Randy Hillier: Five minutes.

The Chair (Mr. Peter Tabuns): Randy, you should read this before you come here.

Mr. Randy Hillier: I just got—

The Chair (Mr. Peter Tabuns): If you don't have questions, I'd like to ask if the members are ready to vote.

Ms. Dipika Damerla: We're ready to vote on the government side.

The Chair (Mr. Peter Tabuns): Okay. Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried. Thank you.

Sir, thank you very much.

Mr. David Hili: Thank you.

COUTU GOLD MINES LIMITED ACT, 2012

Consideration of the following bill:

Bill Pr1, An Act to revive Coutu Gold Mines Limited.

The Chair (Mr. Peter Tabuns): Mr. Orazietti, are you ready? We'll now proceed to the first item of business on the agenda. The first item is Bill Pr1, An Act to revive Coutu Gold Mines Limited. Mr. Orazietti, you'll be sponsoring the bill. Would Mr. Orazietti and the applicant please come forward?

Mr. David Orazietti: Chair, where would you like me?

The Chair (Mr. Peter Tabuns): You have a seat there. If the applicant could introduce himself for the purposes of Hansard. If you could just say your name, please.

Mr. Peter Coutu: Hi. My name is Pete Coutu, and this is my brother Patrick.

The Chair (Mr. Peter Tabuns): Excellent. Mr. Orazietti, do you have any comments?

Mr. David Orazietti: Thank you very much, Chair. I appreciate the indulgence of the committee on the matter.

Peter and Patrick Coutu from Sault Ste. Marie, as you're aware, wish to revive the company that was started by their father. It was a family business early on and they wish the opportunity to re-examine and explore the previous claim that was made in the area. As you're aware, this is the only mechanism by which they can do that.

I think it's fairly straightforward. I don't know that I have anything else to add. I'm happy to hear comments from either Peter or Patrick.

The Chair (Mr. Peter Tabuns): Okay. Mr. Coutu, do either of you have any comments?

Mr. Patrick Coutu: Any comments?

Mr. Peter Coutu: Not really.

The Chair (Mr. Peter Tabuns): No?

Mr. Peter Coutu: Unless somebody would like to ask me a question or something.

Mr. David Orazietti: Do you want to explain the purpose of it or why this is important to you?

Mr. Peter Coutu: Just explain why?

Mr. David Orazietti: Why it's important to you.

Mr. Peter Coutu: I would like to have the company revived in order to facilitate further business, future business, and business development to raise money for investment in other mining properties. I would also like to try and—I have an opportunity to try to regain control of mining claims that the company once held. I have that possibility. I have to have the company alive in order to have the claims returned to us. Otherwise, without the company, they can't be returned to us.

The Chair (Mr. Peter Tabuns): That's straightforward enough and I appreciate it. Is there anyone else who has commentary or wants to speak to this in the room? Any comments from the government?

Mr. Michael Coteau: No comment.

The Chair (Mr. Peter Tabuns): No comment. Any questions from other members of the committee? None? Are the members ready to vote?

Interjection: Yes.

The Chair (Mr. Peter Tabuns): Excellent.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

We're done. Thank you.

There being no other business, the committee stands adjourned.

The committee adjourned at 0908.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 30 May 2012

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 30 mai 2012

The committee met at 0805 in committee room 1.

The Clerk of the Committee (Ms. Tamara Pomanski): Good morning, honourable members. It is my duty to call upon you to elect an Acting Chair. Are there any nominations? Mr. Walker.

Mr. Bill Walker: I'll nominate Michael Mantha.

The Clerk of the Committee (Ms. Tamara Pomanski): Mr. Mantha, do you accept the nomination?

Mr. Michael Mantha: I accept.

The Clerk of the Committee (Ms. Tamara Pomanski): Are there any further nominations? There being no further nominations, I declare the nominations closed. Mr. Mantha is elected Acting Chair.

ONTARIO FORESTRY INDUSTRY REVITALIZATION ACT (HEIGHT OF WOOD FRAME BUILDINGS), 2012

LOI DE 2012 SUR LA REVITALISATION DE L'INDUSTRIE FORESTIÈRE DE L'ONTARIO (HAUTEUR DES BÂTIMENTS À OSSATURE DE BOIS)

Consideration of the following bill:

Bill 52, An Act to amend the Building Code Act, 1992 with respect to the height of wood frame buildings / Projet de loi 52, Loi modifiant la Loi de 1992 sur le code du bâtiment en ce qui a trait à la hauteur des bâtiments à ossature de bois.

The Acting Chair (Mr. Michael Mantha): Good morning, everyone. This is actually my first committee, and I get to Chair it.

We are here for public hearings on Bill 52, An Act to amend the Building Code Act, 1992 with respect to the height of wood frame buildings. Please note that written submissions received on this bill are on your desk.

RESCON

The Acting Chair (Mr. Michael Mantha): I will now call on RESCON, Richard Lyall, president, to please come forward. You have up to 10 minutes for your presentation, and up to five minutes have been allotted for questions from the committee members. Please state your name for Hansard, and you may begin at any time.

Mr. Richard Lyall: Thank you, and good morning. Thank you for affording me the opportunity to speak to you today. My name is Richard Lyall. I have represented the residential construction industry for 20 years in my current capacity. Specifically, my responsibilities include the administration of the Residential Construction Council of Ontario, the Toronto Residential Construction Labour Bureau, the Durham Residential Construction Labour Bureau and the Metropolitan Toronto Apartment Builders Association. I also sit as a director of the Residential and Civil Construction Alliance of Ontario. In addition to that, I sit on a number of other organizations engaged in construction in the province. I was a vice-chair of building reform at one time as well, and I am a former civil servant, where I worked in the area of industry, trade and technology policy.

The main issues of interest to us and which we have been engaged in for years include human resources, technical standards, health and safety, infrastructure development, innovation and housing affordability etc. We have issued numerous reports on related matters over the years. Most recently, we have, as well as the many well-documented media sources, cited the growing problems with housing affordability, infrastructure and related barriers to innovation in housing production.

This has mostly been in response to disturbing trends in the past decade which are not sustainable. Those are the zero real-income growth, the 200% to 300% increase in land prices and government-imposed costs, and the growing housing affordability problem—a rapidly expanding issue even though we have very low interest rates. While daunting challenges to be sure, one way we can have an impact is in finding ways to reduce production costs.

I know you have a busy day ahead, and we'll therefore focus on three key points central to your deliberations. I will not spend any time on technical or safety issues, which, while important, are not that which should cause mid-rise timber frame construction to be blocked or unduly delayed. Any details that need to be sorted out there can be done so with ease through, amongst other things, the Ontario building code. Partly that is because mid-rise timber frame is not something new. Also, we have a building industry that is second to none, which can handle it.

Indeed, even though we are recognized by others for our abilities, there is no doubt Ontario is behind other jurisdictions in innovation. Even though we are very

similar to the US, Scandinavia and some European countries, they have moved well ahead of us on innovation related to timber frame construction and engineered wood product developments and their applications.

The three critical factors I wanted to touch on are, first, housing affordability. Mid-rise timber frame would fill a niche in the market which needs to be filled. With smart growth and the need for higher density infill and new development, we need to find a way to build where high-rise concrete or low-rise housing, for example, are not cost-effective. As such, it would open up an entirely new market, which is badly needed. It would create solid new jobs, build on our strengths and renewable resources, and increase our capacity to provide badly needed housing critical for the economy. I can assure you that the market is there in the thousands of units, and also that there are opportunities for rental housing here which should not be ignored.

I would also ask, where are the alternatives to this? Governments do not have the money to fill the gap with respect to housing affordability, and, in fact, never did. So efforts must be made to balance demand and supply.

The second point I wanted to discuss is innovation. Ontario needs to step it up in the area of housing and innovation. Mid-rise timber frame is one of those areas, in addition to others.

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I would note that significant advances have been made in Ontario relative to low-rise housing in panelization. That technology lends itself well to mid-rise timber frame. We need to allow the market to build on this.

The third critical area is in the area of northern development. We should be exploring ways to add value to our timber products for both domestic and foreign markets, and to add to that, mid-rise timber frame is a sustainable and green industry.

For the above reasons and others, my remarks are therefore in support of the letter and spirit of the bill. It is supported by the home building industry. It is in the public interest at every level, in our opinion, and the concerns related to it are details which can be resolved as they have been in other jurisdictions no less responsible than ours. And there are many noteworthy advantages too.

I conclude my comments at this point and would be happy to answer any questions you might have. Thank you.

The Acting Chair (Mr. Michael Mantha): We will go to the opposition to start your series of questions.

Mr. Victor Fedeli: Thank you very much, Mr. Lyall, first of all, for taking the time to be here and, secondly, for offering your support for this important bill.

When you talk about increasing capacity, filling the niche and the jobs, can you just spread that out, just for another moment or two, the type of niche that it could perhaps fill?

Mr. Richard Lyall: One area that's pretty obvious to us is that you do have sites and locations and market conditions where something on a very large scale would not work. It wouldn't fit, for example, or just wouldn't fit in with the various community characteristics or planning or whatever. In other cases, where the land might be too expensive for a low-rise project, that might not fit as well. So, in the industry we see a gap there between the two that could and would be filled by this.

The other thing is, because the production costs are lower, we think that opens up greater opportunities for development mix and feasibility—also, interestingly enough, in the area of rental housing. Arguably, we don't have a sufficient amount of production in that area, and we think there are opportunities there as well.

The Acting Chair (Mr. Michael Mantha): Any further questions from the official opposition party? Then we will go to the government.

Mr. Mario Sergio: Thank you for your presentation, Mr. Lyall. Since we have the time, you mentioned a few things in your presentation with respect to alternative and affordability and northern industry, speaking economically, especially for the north. Any other area that you may have some concern with? I know you have mentioned some of the positive sides, if you will, but is there any concern that the industry in general may have, such as safety? How do you see that?

Mr. Richard Lyall: I wouldn't put them as concerns. Needless to say, in the building industry we're always very conscious of safety matters and the related technical matters. In this area, we don't see any apparent safety concerns that would cause us not to proceed with this.

There might be some very fine details with respect to certain specific, say, fire separation characteristics. We already—and did recently—introduced sprinklering into multi-unit housing, so that would alleviate any concern there. Again, there might be some tinkering but nothing of any real substance overall.

The other thing I'd add too is that I think mid-rise timber frame combined with panelization, because they do go hand in hand, is very safe. Certainly in the low-rise area, where we've gone from stick-built housing to panelized housing, there are a number of very positive safety features to that relative to construction. You end up with, I would suggest, a tighter product and a product that's to a much greater extent pre-engineered in the off-site facilities where the components are fabricated.

The concerns that exist are ones that could be handled—and handled, I think, very quickly and expeditiously—through committee, bringing the various experts together on fire safety and structural aspects, and they could be sorted out without any real problem.

Mr. Mario Sergio: Just another quick one, Chair.

Do you represent the construction industry throughout Ontario, or are you more regional in areas?

Mr. Richard Lyall: We're a province-wide organization, RESCON is, and the RCCAO, but certainly a good portion of my work is related to the central Ontario area, only because that's where a huge proportion of the production currently exists.

Mr. Mario Sergio: And, finally, do you know how the steel and cement industry looks upon this particular issue?

Mr. Richard Lyall: I understand they have some concerns. I have seen some of the documentation on that, and I think part of that might be driven by the fact that this is a competing product and therefore might affect their market, although, as I said in my remarks, mid-rise timber frame is something that would actually, I think, and we think, open up a new market. So I don't see it as sort of Peter robbing Paul; I think it's complementary.

Mr. Mario Sergio: Thank you very much. Thank you, Chair.

The Acting Chair (Mr. Michael Mantha): Seeing no further questions, thank you very much, Mr. Lyall, for your presentation.

CANADIAN WOOD COUNCIL

The Acting Chair (Mr. Michael Mantha): We will call on our next speaker, who will be Michael Giroux, president, for the Canadian Wood Council. You have up to 10 minutes for your presentation and up to five minutes has been allotted for questions from the committee. Please state your name for Hansard, and you may begin at any time.

Mr. Michael Giroux: Good morning. My name is Michael Giroux, and I'm the president of the Canadian Wood Council. By way of introduction, the Canadian Wood Council represents the Canadian wood products industry through a national federation of associations. Our mission is to protect and to ensure future market access for wood products and construction through work in building codes and standards, and to increase demand for Canadian wood products through education.

The Canadian Wood Council has directly participated in the development of the National Building Code of Canada and of its provincial derivatives for the past 50 years. Given our name and mandate, it should come as no surprise to committee members that I'm here today in support of Bill 52.

Getting straight to my points, should this bill go forward, Ontario's proposed code amendments would explicitly describe new wood-based mid-rise-building solutions as prescriptive acceptable solutions. This would offer a significantly different and improved option for specifiers—these are architects and engineers—in terms of avoiding the extra time and cost they now have to spend to seek special approval through the more onerous alternative compliance pathway. This amendment would create a more equitable playing field for the use of structural wood products in five- and six-storey mid-rise construction.

This is not about favouring wood. This is not what you've heard before as "wood first." It is about adding another choice that specifiers are free to choose or not to choose.

There is regulatory precedence for code changes being considered in Ontario. The province of British Columbia made similar changes in their building code in 2009, and evidence would suggest that substantive economic and social benefits from similar code changes can be anticipated here in Ontario.

The changes contemplated for the Ontario building code will result in closer harmonization of the acceptable solution section with the provisions adopted in the BC building code and also allying closely with more recent code changes that BC has subsequently requested to be included in the 2015 National Building Code of Canada.

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Similar to BC, the Canadian Wood Council has also submitted requests for changes to the 2015 National Building Code. These include a set of amendments that would allow for new provisions in the building code, similar to both the Ontario and BC provisions, but go beyond those in recommending even greater heights in areas for six-storey, mid-rise, multi-family and other non-residential buildings.

Parallel to this activity, a research project is under way at the National Research Council, and this project is called Wood and Hybrid-Wood Mid-Rise Buildings: Comparing the Performance of Different Structural Solutions (Concrete/Steel/Wood), Assessing Risks, and Developing Solutions. This is a collaborative study involving the National Research Council of Canada, Natural Resources Canada, and the Ontario, Quebec and BC provincial ministries responsible for building regulations. There's also an associated advisory committee that includes the aforementioned parties as well as fire officials, competing material industries and others.

The question then arises: Does Ontario need to wait for the results of either the review of the National Building Code of Canada changes, recommended by BC and the Canadian Wood Council, or results of the National Research Council's research project before implementing their own changes? I would argue that, no, they don't have to wait.

There's already ample information available from the BC work and an opportunity now to expedite amendments here in Ontario that could see these provisions added to Ontario's 2012 building code. Alternatively, if there should be a preference to wait for the results of the national code discussions, it is recommended that Ontario still seek to have the National Building Code of Canada proposed changes reviewed as amendments to the 2012 Ontario building code, possibly as soon as the spring of 2013. Ontarians could then see the benefits of wood-frame, mid-rise construction sooner than later.

Just to summarize here:

(1) There is Canadian precedence in BC for MPP Fedeli's proposed Ontario building code change request, and the option to implement such changes can be expedited here in Ontario. The province of BC approved their amendments in the BC building code in less than a year.

(2) The proposed Ontario building code changes include proven fire-safety measures which ensure that mid-rise, wood frame buildings will be designed to perform as well as other buildings permitted under the current version of the code. These measures include compartmentalization of buildings, more extensive installation of fire sprinklers, increased water supplies for fire

protection, careful control of moisture content in wood products and increased controls to mitigate fire risks during the construction phase, when wood frame structures are most vulnerable.

(3) The fire-safety measures seek to address the different issues of concern, including construction site fire safety, that have been raised by other affected stakeholders, such as the construction material interests and members of the fire emergency services, who have recommended delaying these decisions to post-2015.

If any delay is preferred—and this is as a result of the discussions today or other discussions—an expedited approach in 2013 would still be considered and supported, or should still be considered and supported, using the draft 2015 National Building Code of Canada proposed technical amendments as the basis for the Ontario building code changes.

That concludes my remarks. I thank you for your attention. I recognize I used the words "building code" about 50 times there. Thank you.

The Acting Chair (Mr. Michael Mantha): Thank you for your presentation. With this round of questioning, we will start with the official opposition.

Mr. Bill Walker: My only one, I guess, is, have any amendments been further made to the BC legislation since it has been implemented?

Mr. Michael Giroux: No, not at this stage. They are working with the Canadian Wood Council, looking at additional amendments going into the 2015 building code, but their code has remained static.

The Acting Chair (Mr. Michael Mantha): Mr. Fedeli?

Mr. Victor Fedeli: Thank you very much. I want to talk about BC as well. Can you tell us a little bit more about the positive experience in BC and the history there and what we've seen—the buildings that have been developed in the marketplace?

Mr. Michael Giroux: Yes, well, at this point, as the previous speaker mentioned, it was like a gap had been filled. We have, through our woodworks projects, tracked over 102 projects now under way in 149 buildings under construction. These are all five- and six-storey buildings. We see this in the lower mainland in BC in particular, but it is starting to spread through other communities such as Kelowna, Penticton and Vernon.

Mr. Victor Fedeli: I want to touch on what member Sergio spoke about as well. With respect to other stakeholders in the industry, can you talk a little bit about the effect on other stakeholders, i.e., cement or steel, in British Columbia?

Mr. Michael Giroux: I can tell you that they aren't particularly happy about this project. The fact of the matter is that when you look at the construction heights that these are talking about, six floors, this isn't—and I could stand to be corrected by Robert Burak behind me or others. But this isn't exactly the sweet spot for concrete.

Really, at the end of the day, what we're talking about is competing with steel. Light-gauge steel framing, like wood, has fire issues, yet it's still permitted to go up to six floors. I think at the end of the day, this is a sweet spot that isn't exactly the perfect area for concrete, although size of building could matter. It puts us more squarely in competition with steel.

I don't know; does that answer the question, more or less?

Mr. Victor Fedeli: I was just speaking about the experience, more or less, in British Columbia from the marketplace.

Mr. Michael Giroux: You know—

Mr. Victor Fedeli: Let me be more specific. Did it allow for buildings, in your opinion, that may not have been built, because of the prohibitive price?

Mr. Michael Giroux: Oh, for sure.

Mr. Victor Fedeli: That's more or less the market that I'm referring to.

Mr. Michael Giroux: Yes, I know. That's what I meant earlier when I said the 149 buildings. Obviously, this has allowed for real opportunity that did not exist before. They're seeing up to 15% savings in the construction, so buildings that would not have been constructed before are now being built earlier and much quicker. It is both helping the economy and solving a social problem.

The Acting Chair (Mr. Michael Mantha): Any further questions from the opposition? I will now turn to the government.

Mr. Mario Sergio: Thank you, Chair. Mr. Giroux, you mentioned the project research. Is that in collaboration with Ontario and Quebec, I believe?

Mr. Michael Giroux: Correct.

Mr. Mario Sergio: Would you know at what stage that project is now?

Mr. Michael Giroux: Yes, this is a two-and-a-half-year project. We're into the second full year of it. Essentially, that project must provide commentary by early 2013 so that it could be in time for the 2015 National Building Code. At this stage, it's still at the research level with the National Research Council.

Mr. Mario Sergio: It's over two years now—

Mr. Michael Giroux: We're about halfway through that project right now.

Mr. Mario Sergio: I know you did mention in your presentation that you don't want to wait, you don't have to wait, for the completion of this report. But since it's imminent, I would hope it would be of interest to wait and see.

Mr. Michael Giroux: Would it be prudent?

Mr. Mario Sergio: Yes.

Mr. Michael Giroux: There are two opportunities here. One of them is to adopt what BC has done relatively quickly. You could do that now if you, so to speak, trust what BC is doing and what their building officials have come together with. That's one of the opportunities.

This other opportunity speaks to a super model of what was done in BC, so greater heights, greater areas, a more stringent review of some of the issues that are associated with it. I think it's a matter of economics.

The risk here is that if you decide to wait, and the process is the way it is for building codes, this isn't something that the government is likely to reopen in 2013. We'd say, "Take the building code changes early from the research. Go early in 2013. Let's talk about this, get it out for public comment and parallel." But the more likely scenario is they'll wait for 2015's National Building Code of Canada to come around and then by the time Ontario adopts it, it will be 2017. So we'll wait five years in order to get something that—we could go right now with BC's provisions. That's the difference.

The Acting Chair (Mr. Michael Mantha): Mr. Coteau?

Mr. Michael Coteau: Thank you, Mr. Chair. You mentioned a 15% savings in some cases. Can you explain where that savings came from?

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Mr. Michael Giroux: Yes, these are savings that we've seen in the first number of projects. Particularly, it comes as the building is lighter—it's not as massive—so the foundation work, the structure work, the relative costs of materials—you've got to remember that this is a system, so at the end of the day we're looking at the overall costs from one end to the other in the construction of these buildings of about 15%.

Mr. Michael Coteau: Do you know if there's a difference between accessibility for communities, wood versus other products?

Mr. Michael Giroux: Accessibility in terms of fire services or in terms of—

Mr. Michael Coteau: Accessibility in regards to—I sit on the committee that's looking at aggregate and transportation, and there are different types of issues around transportation, things like that.

Mr. Michael Giroux: You mean for getting materials to sites and things?

Mr. Michael Coteau: Exactly.

Mr. Michael Giroux: This is one of the beauties of lumber and wood. There's wood in every community, so you don't have to bring in things like iron from thousands of miles away to fuel your cement kilns. You have the products relatively close at hand, so that's good. I thought you were going to go down the angle of accessibility for handicapped people, but that's okay.

Mr. Michael Coteau: My last, brief question: Is there a type of chemical or technology they're using now for wood to really repel fire?

Mr. Michael Giroux: There are fire coatings that are available for certain types of products, and the Wood Preservation Canada association has a whole listing of these on their website that you can easily see.

That said, these buildings aren't usually—there are coatings—there are systems available. If you look at Calgary and Edmonton, they talk about how to solve that fire problem during construction. They talk about fire blankets; they talk about coatings; they talk about using gypsum on outside walls. So there are ways to get around some of these things.

But generally, when you're building these buildings, there are just very traditional ways to look at it and you'd have to implement these. These include things like if you're going to build a firewall, make sure it's there; make sure the firewall doors are closed. If you've got sprinkler systems, maybe you activate them earlier. So there's a number of things in the construction phase.

In the ownership phase, once these buildings are built, they are every bit as safe. They're built to the same stringent qualities and higher, because of sprinkling requirements, than other systems.

Mr. Michael Coteau: Thank you very much.

Mr. Michael Giroux: You're welcome.

The Acting Chair (Mr. Michael Mantha): Okay, we've now come to the end of this question period for this presentation. I want to thank Mr. Giroux for his presentation.

KOTT GROUP

The Acting Chair (Mr. Michael Mantha): I will now call on the Kott Group: Mr. Bernie Ashe, chief executive officer, and Jeff Armstrong, general manager of the DAC division. You have up to 10 minutes for your presentation, and up to five minutes have been allotted for questions from committee members. Please state your name for Hansard, and you may begin at any time.

Mr. Bernie Ashe: My name is Bernie Ashe. I am the CEO of Kott Group. My colleague to the right is Jeff Armstrong. He is the president and general manager of DAC, one of our divisions, and he is our building science expert.

Thank you for the opportunity to participate in these hearings. Kott Group is one of Canada's largest building-supply organizations. We have been in business for more than 35 years and operate at seven locations in Ontario and Quebec. We employ more than 500 people in our Ontario operations. Our products and services include lumber and building materials, high-performance prefabricated buildings, stairs and home exterior products. Our customers are residential home-building professionals. Our customer list includes some of Ontario's largest home builders, for example, Minto, Monarch, Mattamy and Fernbrook, just to name a few.

In the forest products supply chain, we are the last point of resale before the end use of the products. We add value by designing and building prefabricated components from the raw lumber, based on our customers' building designs.

We're committed to providing our customers with products that originate from well-managed forests. We're one of the first lumberyards in Ontario to implement a chain-of-custody management system. We have held FSC chain-of-custody certification since 2008.

We strongly support Bill 52, and this is not the first time we have voiced our support for six-storey wood frame construction. In June 2011, we, along with 10 of our key customers, sent letters of support to the Minister of Municipal Affairs and Housing. We believe that there

will be significant economic, social and environmental benefits for Ontarians if the building code is amended to allow for six-storey wood frame construction.

There are economic benefits of six-storey wood frame construction. In addition to the 200,000 forestry industry jobs that would be supported by this bill, there are job impacts further down the supply chain.

The residential construction industry is a huge consumer of wood products. It was responsible for more than 65,000 housing starts in Ontario in 2011. Of those, 37,000 were low-rise wood frame structures, single family, semi-detached or row homes.

The residential construction industry is also a significant employer in Ontario, responsible for more than 350,000 jobs. These jobs cover a broad range: carpenters, plumbers, other skilled trades, architects, planners, engineers, lawyers and sales professionals.

For our home builder customers, one of the biggest challenges is the ability to compete in the face of municipal densification policies. Whether it is the greater Golden Horseshoe growth plan or the city of Ottawa official plan, municipalities in Ontario are effectively seeking to reduce urban sprawl. We recognize the benefits of increased density: Reducing reliance on automobiles and taking advantage of existing infrastructure is good for everyone in Ontario and for the environment. However, these densification policies, when coupled with the existing building code, make it difficult for many home builders to run their businesses profitably and keep their teams employed.

Infill development land is scarce and is expensive to buy. Construction costs related to an infill project can be higher as building practices are constrained by space and respect for bylaws. The current four-storey height limit puts constraints on the amount of product that can be built and sold using traditional wood frame construction; in essence, capping the revenue and, therefore, the profit and return on investment potential of an infill project.

Without a viable solution for profitable infill projects, many low-rise home builders can't make money while following the densification rules. Residential construction industry jobs, therefore, are at risk. The ability to build in wood could make five or six-storey projects economically feasible for these builders. This would level the playing field, allowing them to compete while respecting municipal densification policies.

Looking to the future, the development of know-how for the design and construction of taller wood frame buildings will create export opportunities for Ontario companies as countries around the world address the implications of rapidly increasing urbanization.

I'll now hand it over to Jeff Armstrong.

Mr. Jeff Armstrong: I will begin by addressing the social benefits of six-storey wood frame construction.

Changing demographics are driving a change in the type of housing we require. Over the last nine years, we've seen a shift from single family homes to multi-family dwelling units. In 2003, singles and semis made up 66% of all residential building permits in Ontario and, today, they account for only about 50%.

CMHC's market outlook indicates that higher density construction will continue to be the trend, based on demographic projections related to our aging population and immigration rates. We need to develop new affordable housing products to address this requirement.

In other Canadian and international jurisdictions where mid-rise housing has been tried, it has proven to be more economical to build in wood than in concrete or steel. According to the Canadian Wood Council, while there will always be project-specific differences, light wood frame construction consistently costs 5% to 15% less than concrete or steel. This makes six-storey wood frame housing an affordable choice.

Many people find mid-rise housing more appealing than high-rise buildings because the physical scale is closer to the human scale. Mid-rise buildings are closer to the ground, they can provide direct views in the tree canopy, and they generally feel more connected to life at street level.

Advances in technology have made building six-storey structures with wood practical. The prefabrication of structural components such as wall, floor and roof panels in the factory, or the use of new engineered wood products such as cross-laminated timber, allows for faster on-site build times than either concrete or steel construction. This reduces neighbourhood disruption on urban infill sites and lowers the health and safety risk.

There are also environmental benefits of six-storey wood frame construction. Wood is the only mainstream structural building material grown by the sun. The common alternative materials, steel and concrete, utilize non-renewable resources and do so in a way that is significantly more energy intensive than wood. Carbon dioxide, the predominant greenhouse gas, is removed from the air as a tree grows and is sequestered in the wood until it is either burned or it rots. The viable service life of a wood frame building can be well in excess of 100 years, and the potential for reusing that wood means that the carbon dioxide can be locked up indefinitely. Wooden structures are less thermally conductive than either steel or concrete, making them inherently more energy conserving. Wood is easy to insulate to high standards, whereas concrete and steel must overcome challenges related to thermal bridging. Light metal framing reduces thermal resistance by nearly 50%, which results in an increased energy use.

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Finally, a word about safety. Those opposed to this bill might have you believe that taller wood frame buildings are unsafe due to increased risk from fire or their performance in earthquakes.

Fire safety, one of the building code's key objectives, was clearly considered in the development of the proposed code change. In the current building code, standards for ensuring human safety in wood frame structures are well documented and well understood. The fire safety measures required to ensure that six-storey wood frame buildings will perform at least as well as or better than currently permitted buildings are also well understood.

While it is true that a six-storey wood frame building is more vulnerable to fire during the construction phase than a steel or concrete structure may be, this is a risk that can be mitigated. In other jurisdictions, including British Columbia and Washington state, collaboration between code officials, fire officials and the building sector has developed strategies and provisions to reduce this risk.

Wood offers one of the safest building systems in an earthquake. Because they are lighter than other building systems and more flexible because of the way they are connected, wood structures are better able to withstand the motion generated by an earthquake.

In conclusion, there are significant economic and demographic drivers for building six-storey wood frame buildings, as well as many social and environmental benefits to doing so. On behalf of the residential construction industry, we urge you to support Bill 52.

The Acting Chair (Mr. Michael Mantha): Thank you for your presentation. We will start with the opposition with this round of questions.

Mr. Bill Walker: Could you just expand a little bit more on the safety aspects and where you stand as far as how that compares to some of the other construction methods?

Mr. Jeff Armstrong: As you've heard from some of the other presenters, the key vulnerability of timber in this sort of application is during the construction phase. All of the provisions that have been developed in the current building code to address fire safety in wood frame buildings apply—in the case of occupied buildings, I think it's very easy to demonstrate that human health and safety is well safeguarded by current provisions. It's really only this issue of what happens during the construction phase. I know there have been detailed discussions with all the stakeholders around this issue, and there have been several, I would call them minor, adjustments that would be proposed to take place during the construction phase to mitigate this risk.

Mr. Bill Walker: Thank you.

The Acting Chair (Mr. Michael Mantha): Any further questions from the opposition?

Mr. Victor Fedeli: Yes, thank you very much. Mr. Ashe, I'm starting to sense a trend here, a bit of a theme between Mr. Lyall, Mr. Giroux and yourself in terms of the fact that there's a gap that seems to be filled here, that this is opening up a new marketplace, a non-competing marketplace. Would you agree to elaborate on that, please?

Mr. Bernie Ashe: It's exactly the point. Our customers are telling us that building a four-storey structure, given the number of units that they would have for sale or for rental, is not a profitable endeavour. But a five- or six-storey structure allows them, for the same cost of capital or for an incremental cost of capital, to get a much better return on investment. They really need the fifth and sixth storeys to justify the investment. The investment is higher in these infill projects where you're dealing with intensification, working with downtown property values or property values in established neighbourhoods where land costs are extremely high and accessing the site is very sensitive. The return on investment starts to get more attractive above four storeys.

Mr. Victor Fedeli: When you look at the provincial government's greater Golden Horseshoe plan that tries to halt the urban sprawl and promote infilling and then you look at northern Ontario's plan—although not complete, but the whole concept is to ignite growth through industries such as the forest sector—would you agree that this is the perfect plan to resolve the infilling issues in southern Ontario and satisfy the need for growth in the north? And if so, could you just fill in the gaps a bit?

Mr. Bernie Ashe: I completely agree with that premise. What we're hearing from our customers is that homebuyers today want these types of products. Homebuyers today are looking for products that are not as expensive, to get a new dwelling. They want maintenance-free living. So these structures, which are block structures of four storeys, five storeys, six storeys, situated closer to the downtown core, are very, very attractive products. Our home builder customers are telling us that homebuyers are looking for these types of products, so it's exactly creating a rare opportunity that we can fill with this change.

The Acting Chair (Mr. Michael Mantha): We will now go to the questions from the government.

Mr. Mario Sergio: Mr. Ashe, you mentioned competition with other products. I know that we're looking at increasing the industry, especially in northern Ontario, and for good reasons. I think economically and socially we all understand the need for some alternative, if you will. Will this be pitting the north against the south—let's say, the steel industry? You discounted the concrete, but it's more in direct competition with the steel industry. We know what steel is for Hamilton or southern Ontario and the wood industry is for northern Ontario. How do you see that socially and economically, the two competitions working together?

Mr. Bernie Ashe: I don't see it as pitting the steel industry against the lumber industry on structures that are this height. There are numerous neighbourhood disputes that are going on in Toronto and in Ottawa over developments that are trying to be capped because of the impact on the local neighbourhoods. So a lot of the compromise for these structures are lower buildings. The concrete and steel guys are not going to be interested in a six- to eight-storey structure. I don't think that's economically viable. The lumber industry can benefit and home builders, who are traditionally residential home builders, can benefit by building structures that are between four and six, even higher. So I don't see it, necessarily, as pitting one industry against another or one part of the province against another, frankly.

The Acting Chair (Mr. Michael Mantha): Go ahead, Mr. Coteau.

Mr. Michael Coteau: Thank you. When you go beyond four or above, when you go to six storeys, is it usually for a commercial space, or are you finding it's a lot of residential?

Mr. Bernie Ashe: It's residential. It's more units, more condo dwellings or apartment rentals. A typical configuration, frankly, would be some commercial, perhaps, on the ground floor, but all of the residences would be on the floors above.

Mr. Michael Coteau: Do you know, for four storeys or under, what the percentage of steel versus wood is currently—the difference?

Mr. Jeff Armstrong: I don't know what the percentage is, but building four storeys in wood is well understood. It's very common. I'd say wood takes the lion's share of that market at four storeys.

Mr. Michael Coteau: But there are people who opt for steel under four storeys?

Mr. Jeff Armstrong: Not structural steel, but light-gauge steel, which is really, in a sense, almost a direct substitute for wood. It's the same basic approach, although much more difficult to insulate, much less energy-conserving, that sort of thing. But I'd say certainly in the markets where we are in Ontario, wood frame takes the lion's share of four storeys and below.

Mr. Michael Coteau: Thank you.

The Acting Chair (Mr. Michael Mantha): I thank Mr. Ashe and Mr. Armstrong for your presentation.

TEMBEC

The Acting Chair (Mr. Michael Mantha): We will now go to Mr. Paul Krabbe, vice-president of business analysis and control for Tembec. You have up to 10 minutes for your presentation, and up to five minutes have been allotted for questions from committee members. Please state your name for Hansard, and you may begin at any time.

Mr. Paul Krabbe: Good Morning. I am Paul Krabbe, vice-president of business analysis and control for Tembec Forest Products Group.

0850

By way of introduction, Tembec is an integrated forest products company producing lumber, pulp, paper and chemical products with operations in British Columbia, Ontario, Ohio, Quebec and France.

In Ontario, Tembec is currently operating five sawmills located in rural northern Ontario in Hearst, Kapuskasing, Cochrane, Chapleau and Huntsville. Combined direct employment for the operating sawmills is almost 600 employees with more than 100 additional direct employees in forest operations and support. As well, Tembec operates a newsprint mill in Kapuskasing, employing 365, which is dependent on the wood chips produced by our and other independent sawmills in northern Ontario.

Annually, Tembec harvests and delivers almost two million cubic metres of timber to its sawmills in Ontario at a cost in excess of $100 million, much of this which is paid directly to independent contractors and suppliers located in these and other communities. The Ontario sawmill and newsprint operations have a combined gross sales of over $300 million annually.

I am here today to relay Tembec's support for Bill 52. As a softwood lumber producer, Bill 52 presents the opportunity for Tembec and the Ontario lumber industry to access new and local markets by expanding the use of softwood lumber from its traditional markets of single- and multiple-family homes.

The Ontario softwood lumber industry has traditionally been dependent on exporting to the United States approximately 70% of its lumber production. This traditional dependency placed the industry in a vulnerable position with respect to cross-border trade disruptions and, in fact, since 1982, the United States has launched four trade actions with the intention of limiting access to the United States market by Canadian and Ontario producers.

In 2006, Canada and the United States came to an agreement regarding the export of softwood lumber to the United States, with the promise of market access and a measure of stability in the trade of softwood lumber. This agreement was supported by the province of Ontario, the Ontario industry and Tembec.

Unfortunately, shortly after the agreement was implemented, the United States entered into a financial crisis which was most keenly felt in the US housing sector. Housing starts dropped precipitously and overall US lumber demand dropped by 50%. The resulting fall in lumber demand forced the shutdown and, in some cases, permanent closures of many mills in the United States and Canada. Ontario, even with a relatively strong Ontario housing market, also faced shutdowns. Softwood lumber exports from Ontario diminished to 15% of its peak in 2005.

In the 2006 softwood lumber agreement, Canada and the United States had contemplated the need to expand the markets for softwood lumber. This was viewed as a key ingredient in avoiding future disputes between the two countries. On that basis, it was agreed to fund the binational industry council on which leaders from US and Canadian industries could work together and agree to fund initiatives that developed new markets for softwood lumber.

The Canadian industry, with participation from Canada and the provincial governments, are also actively supporting its own initiatives through the Canadian Wood Council and the provincial Wood Works!

While the United States housing market is slowly getting to its feet, it has become clear that Ontario will remain exposed and we, as producers, cannot always rely so heavily on the US export market. It's time to turn inwards and look to game-changers that will have a significant impact on demand for Ontario lumber.

Bill 52, in approving the six-storey mid-rise wood frame construction, is one of those game-changers that could add shifts to existing mills and bring idled Ontario mills back into production. An average mid-rise project requiring one million board feet of lumber would require four to six shifts of sawmill production; 80 projects annually in Ontario would equate to the production of a mid-sized sawmill operating on two shifts, representing 80 to 100 potential direct jobs.

The US housing market has not yet returned to one half of its former average build rate of 1.5 million homes, and we anticipate it will take another four or five years to return to this level. Adoption of the mid-rise building code changes now would come at a time when the Ontario industry is slowly rebuilding itself after more than six years of significant downsizing.

Bill 52 will reduce Ontario's dependence on the return of the US home construction market to its former self, provide a new lumber market in Ontario and give opportunities for northern, rural, forest-dependent communities to put people and resources to work.

I thank the Chairman and the committee members for the opportunity to speak on behalf of Tembec, and on behalf of Tembec, I ask for your support of Bill 52. Thank you.

The Acting Chair (Mr. Michael Mantha): Thank you, Mr. Krabbe, for your presentation, and we will go to the official opposition for questioning in this round.

Mr. Victor Fedeli: Welcome, Mr. Krabbe. It's so nice to see you here from the north this morning. I appreciate you taking the time.

Tembec's slogan is "Rooted in Tomorrow," so obviously you're a wood company. I wanted to take a moment and just talk about wood. You spoke about the shrinking marketplace due to lumber disputes and sanctions and the crumbling American economy, and as a result, we have lots of wood in the north. Secondly, with things like the government's Far North Act, that curtains off half of northern Ontario to lumber production—and mining, incidentally—again, we have a surplus of lumber throughout northern Ontario.

I want to take 10 seconds to pose a scenario and ask you how far off I am or how correct I am. As we are both from the north and neighbouring communities, and our cities have been long-time friends, I'm asked, as the northernmost representative from our party, "Tell me about wood, Vic, and tell me why we should or why we shouldn't harvest wood." I use this expression, with great respect to His Worship the Mayor from Hearst, who has seen this trouble coming with respect to the Thunder Bay area—NOMA will be speaking later—and certainly with respect to the men and women in Timmins and Kirkland Lake today who are undergoing forest fires. I have said, "Let me tell you why we harvest wood. Because when softwood grows, if it is not harvested, it falls over and becomes the fuel to burn northern Ontario." Is that a reasonably accurate expression?

Mr. Paul Krabbe: It can be. There are certainly many forest types that, if you don't harvest it, the fire hazard builds over time. But I'd say that it's good forest management. Why use wood, I think, was your first question. It's a renewable product that will be here for many generations to come—

Mr. Victor Fedeli: Unless it burns.

Mr. Paul Krabbe: It will grow back, but we've not acquired any use. I think others are more expert on it, but building with wood is low-cost housing. This is why I was in the lumber industry in the beginning. We produce low-cost housing. The by-products produce pulp and paper and other products. We're using everything but the squeal with wood, practically, if you use an old expression. It's a very sustainable product. Now that carbon sequestration has become an important consideration in life, wood is one of the logical choices, and our industry is too.

Mr. Victor Fedeli: So you also agree with Mr. Lyall and Mr. Giroux. One of the two of them talked about the carbon sequestration. You do agree with that premise that living trees, when they're put in the building, do sequester the carbon?

Mr. Paul Krabbe: Yes. You're putting the wood into the building. The buildings are going to last for a hundred years, and I think hundred-year-old homes are heritage homes, so they may last longer than that in the long run. So that may get Canada and the world through a very difficult next 100 years in terms of carbon sequestration as we resolve some of these greater issues on global warming.

0900

Mr. Victor Fedeli: While I have many more questions, I'll turn over the mike, due to time.

The Acting Chair (Mr. Michael Mantha): Are there any questions from the government side?

Mr. Mario Sergio: Mr. Krabbe, thanks for coming. Forgive me, but I don't have a question related to the issue. If I may, you did say you have a number of mills. Do you produce any paper products?

Mr. Paul Krabbe: Yes. In Kapuskasing we produce newsprint, and it's a by-product from the lumber industry, so approximately one half of the trees we cut doesn't produce lumber. The outside edges, the round edges of the log get chipped and go to the newsprint industry in Kapuskasing.

Mr. Mario Sergio: Do you do any replanting when you cut your trees?

Mr. Paul Krabbe: Yes, and I was in Kapuskasing just this past week celebrating. On one forest, we had planted our 300 millionth tree since inception.

Mr. Mario Sergio: The reason I'm asking this is because Mr. Fedeli is very strong about this issue.

My last point—and I don't know if I have the right information or not, but I have been told there is no Ontario, Toronto, major newspaper that buys Ontario newsprint. Can you tell me why?

Mr. Paul Krabbe: No, I can't. I can look into it.

Mr. Mario Sergio: You don't want to, or you can't?

Mr. Paul Krabbe: I'm unfamiliar with our newsprint market business at this point.

Mr. Mario Sergio: I see. And which part do you let travel south of the border to the United States? You said something like 70% or 80% of your material goes to the States. Is that wood or—

Mr. Paul Krabbe: It used to be 70%. As a company, we're much less than that today and we're largely selling the wood products to the Great Lakes region, which is Detroit through to Rochester, and a little bit to Chicago.

Mr. Mario Sergio: Thank you for your very direct presentation.

The Acting Chair (Mr. Michael Mantha): We have a little bit more time. Are there any further questions from the—

Mr. Mike Colle: Can I ask a question?

The Acting Chair (Mr. Michael Mantha): Yes, I'll come back to you. I'll cycle back. We seem to be getting along and moving quite well, so I'll go back.

Mr. Victor Fedeli: I'll yield my time. I have plenty of opportunity at home to speak.

The Acting Chair (Mr. Michael Mantha): Thank you, Mr. Fedeli. We will go to Mr. Colle.

Mr. Mike Colle: Thank you. You know, we have an unprecedented construction boom taking place in the GTA. We have more cranes in the sky in the greater Toronto area than all of North America combined. We have 200 construction cranes in the sky. Building is almost out of control. Are you part of that? Are you able to sell any? I know a lot of it is high-rises in construction etc., but are any wood products being used, or enough wood products? Or is there a way of getting more wood products to be used in this unprecedented construction boom that's taking place?

Mr. Paul Krabbe: I would defer to our Canadian Wood Council and those that are trying to get involved. Certainly this bill will get us involved in the mid-rise construction, and I do believe it will put people in northern Ontario who produce SPF lumber back to work.

Mr. Mike Colle: But you don't know of any efforts to get into this boom that's taking place in the GTA here?

Mr. Paul Krabbe: I think this bill would be part of getting us participating in part of that boom. In high-rise construction, the Canadian Wood Council, I do believe, is working on other technologies. There is testing of up to 10-storey buildings, but it's not traditional wood frame housing. It's cross-laminated timber. There's testing going on that in Europe and British Columbia and other areas at this point. So there are other game changers out there. This isn't the only one, but this is just one tool, and we could put people back to work.

Mr. Mike Colle: Thank you.

The Acting Chair (Mr. Michael Mantha): I want to thank you, Mr. Krabbe, for your presentation. It was very well-received.

GREAT GULF

The Acting Chair (Mr. Michael Mantha): We will now call on Mr. Robert Kok, professional engineer for Great Gulf, to please come forward. You have up to 10 minutes for your presentation and up to five minutes have been allotted for questions from the committee. Please state your name for Hansard, and you may begin at any time.

Mr. Robert Kok: Good morning, committee members. My name is Robert Kok. As pointed out, I'm a professional engineer, licenced in the province of Ontario. I represent the Great Gulf Group of Companies, a large land developer in this province that builds high-rise, low-rise, mid-rise, single-family, residential homes.

My role specifically is director of research and development, so I'm challenged to come up with innovative products and building systems. The subject of mid-rise construction is something that I have been working on for probably the last three years as part of the Great Gulf, seeing what BC is doing and trying to see: Does it have an opportunity here in this Ontario market?

There's a presentation that I've handed out. We can kind of just follow along some of the key points I want to bring forth.

Other jurisdictions currently allow light wood frame up to four- to six-storey high construction, establishing the use of innovative wood product systems for mid-rise construction, specifically, engineered wood products like CLT, cross-laminated timber. Really what that's doing is taking wood fibre, I guess in this context from northern Ontario, and converting it into a value-added product.

The proposed code change to increase the height of wood frame residential buildings from four to six storeys does not favour wood, but will achieve all code objectives and provisions.

As a builder-developer, urban densification is something that we're very concerned about. Reducing urban sprawl and densification are mandated in almost all municipal growth plans, predominantly in the GTA and the lower Golden Horseshoe. Six-storey mid-rise is a new market opportunity for us and a wood frame option is considerably more cost-effective than other traditional building products—estimates anywhere from 10% to 15%. Wood frame mid-rise construction could meet this need for densification while maintaining a sense of community and more green space, which I think is important for most municipalities.

Sustainability: It has been talked about earlier. Wood has the lowest body energy of any construction material. There's a lot of research on this and I've read a lot of research reports that validate that statement. Substituting wood for concrete or steel reduces the carbon footprint for buildings. Growing trees absorb and store carbon from the atmosphere; wood products become a long-term carbon system.

As a builder-developer—and I work with other builders and developers in the GTA—people are wanting to build to LEED standards, to green standards, and this is where it really comes into play when you use wood, in relation to the carbon story. Building with wood is also energy efficient, easy to insulate, provides good thermal performance, and the building envelope can be sealed against air leakage.

Being a structural engineer, strength and durability are very important. Wood structures have displayed a high level of seismic earthquake performance and safety that comes from material with greater ductility and a lighter building mass.

In my opinion, there are no significant engineering reasons that make wood less viable than those of steel or concrete, and in the presentation, there are two pictures in

there. One is a document published by the Association of Professional Engineers and Geoscientists of British Columbia that addresses mid-rise construction. It's kind of a best practice guide for design professionals. I'm a licensed engineer in BC as well. I've been kind of monitoring what's happening there from a code stand and I've actually visited BC, walked some buildings under construction, talked to the design professionals and the people that are building these projects.

The other document is Engineering Design in Wood. It's the CSA standard that's referenced in all provincial and national building codes. I sit on the technical committee and I'm also on a task group to address mid-rise in the standard for future revisions of provincial and national codes.

Fire safety, again, is very important. Building code provisions for wood frame construction make it equivalent to other construction methods in terms of fire and life safety. As I pointed out earlier, sprinkler systems are used along with fire-resistant rated assemblies to maintain occupant safety. That's the goal of any builder-developer. We want to make sure the occupants are safe once they move in.

0910

Part of my role with Great Gulf is—we operate a fully automated panelization facility here in the greater Toronto area. We're building what we call panelized floor and wall systems. It's a 120,000-square-foot facility by the airport. I'm very involved with off-site precision manufacturing, factory-controlled conditions. Manufacturing is complemented by the quality and procurement of the wood product. Because it's done by machines, it's built better; there are quality performance and insurance checks. When it goes out to site—panelized wood construction—architectural and engineering specifications are properly designed and manufactured. This ensures building code approval and compliance. Installation is more precise and controllable, and there's increased job site safety with this process because you're using small cranes and boom trucks to lift the large panels in place. It expedites the construction cycle, and the finished product is much better. That's our experience.

In summary of the Ontario mid-rise initiative—the last picture there is actually a project that I've worked on for the last three years. We're building three four-storey buildings in Mississauga. Construction will probably start later this fall. As I said, these buildings could be six-storey. When we started three years ago, working with the project engineer and architect, we did a what-if scenario—what if the code changed? So we actually have kind of in the background a six-storey option of a prototype panelized building that we could probably build tomorrow if the code changed.

Being involved with this process over the last few years, there's always debate of wood versus steel versus concrete. When you're building a four-storey building, your substructure below the surface is concrete. We use steel through the building process. So there's a combination of products that fit what you're trying to build. From a builder perspective, you want to build the most economical building so you can sell it and have it be affordable. When you go to six-storey, chances are, with these infill projects, you're increasing your floor level by two in wood, but you might have to increase your concrete level below the surface by another level for parking.

This initiative is a win-win solution for any building product. It is a niche market.

Thank you for the opportunity to speak.

The Acting Chair (Mr. Michael Mantha): Thank you for your presentation. We will go to the official opposition for this series of questions.

Mr. Bill Walker: Thank you, Mr. Kok, for your time and your expertise. I have a couple of points of clarification. For a six-rise, currently, that's either metal or concrete construction, does it require sprinklers as well?

Mr. Robert Kok: I believe so, yes.

Mr. Bill Walker: So not really anything significant as far as changing—yours would require it if the wood goes through it—

Mr. Robert Kok: Currently, we require sprinklers for four-storey. Again, it's about making sure, if there is a fire, it's quickly extinguished. It's not about which product is in the building; it's about safety of the occupants.

Mr. Bill Walker: You made reference to, there are no significant structural concerns that you have. When you say "no significant," are there other structural issues that need to be considered?

Mr. Robert Kok: Every building design is unique. You have to address structure. So whether you're building in the greater Toronto area or Ottawa or Windsor, there are different loads—snow loads, wind loads, seismic loads, whatever—so you have to design. Where you're building could propose an issue that you have to address that you wouldn't have to address in the Toronto market. Again, it's unique to the building design.

Mr. Bill Walker: But for clarification, in that case, you're going to build to the structure, as needed; as opposed to a rubber stamp of all are going to be coated with the same brush.

Mr. Robert Kok: As I mentioned, we have a prototype four-storey panelized building, and we could build it six-storey tomorrow. We have it already designed.

Mr. Bill Walker: Great, thank you. And one last one, if I could. Just your second bullet on the page with Ontario's mid-rise: You suggest that the proposed code changes to increase the height of the wood frame residential building from four- to six-storeys does not favour wood but will achieve all "objectives and provisions." Can you just clarify? I think what you're saying is you're not saying it has to be a wood at six storeys.

Mr. Robert Kok: No.

Mr. Bill Walker: You're saying this is just another alternative.

Mr. Robert Kok: It's another alternative—

Mr. Bill Walker: Thank you.

The Chair (Mr. Peter Tabuns): Okay. Thank you. Any questions from the government? Mr. Colle.

Mr. Mike Colle: A very interesting presentation, Mr. Kok. Ironically, I sit on another committee, which is looking at the Aggregate Resources Act. As you know, there's immense opposition to the growing number of quarries and the impact that quarry and stone and gravel extraction is having. One of the suggestions I made at the committee is, how come there isn't more encouragement to build wooden infill in cities like Toronto? All we're seeing are stone homes everywhere. And I see people with big signs in front of their stone homes that say, "Stop the quarry."

Mr. Robert Kok: Okay.

Mr. Mike Colle: So how can we get more building of infill that is wood, given the quality of wood products? I've known for years, in my own home, the strength of the wooden I-joints, or I-joists.

Mr. Robert Kok: I-joists.

Mr. Mike Colle: So why aren't there these homes—why don't we see more wooden-built homes? I'm not talking about necessarily mid-rise—that could be mid-rise—but infill housing seems to be always stone now. You hardly ever find anything with—well, there are some modern homes now that are doing some wood facing. But I wonder if you could answer that.

Mr. Robert Kok: Again, I think that from my perspective, I see lots of opportunity. Currently, with our facility in Toronto, we're producing wood panel products for projects all over Ontario. There are infill projects going on today in Toronto that we're shipping product to. We're going to be doing some four-storey infill projects here in downtown Toronto: one on Florence Street, and the other one in kind of High Park—I don't know the intersection. Those are wood infill projects. But we're also doing low, single units too.

Mr. Mike Colle: But is there some obstruction or some regulatory regime that stops the infills from taking place, besides this one about the number of storeys in mid-rise? I would estimate that over 90% of the infill seems to be stone. Is there something blocking it or is it perception or is it—

Mr. Robert Kok: I think it's perception, because from my perception there's probably more predominantly wood being built in that area.

The Chair (Mr. Peter Tabuns): Mr. Colle, with your indulgence, if I could give the last minute and a half to Mr. Mantha.

Mr. Mike Colle: Oh, sure.

The Chair (Mr. Peter Tabuns): Mr. Mantha, you had a question?

Mr. Michael Mantha: Thank you very much, Mr. Speaker.

You made a comment earlier that there are no significant structure concerns. I'd like you to elaborate on that just a little bit more. Being a northerner and an individual who comes from the forestry sector—one of the reasons I'm sitting here is because of the devastation that happened in the forestry sector, where I've had to look at diversifying my future—one of the biggest perceptions out there is that there is a structure concern. I'd like you to elaborate on that comment.

Mr. Robert Kok: Okay. I think I alluded, to Mr. Walker on a similar question—as I pointed out, we have designed a four-storey building, and we've taken the same building and done a "what if" scenario: if we could go six. The end conclusion was there weren't any significant structural concerns. We could easily do it in wood, from a structural standpoint, from a fire standpoint, from an acoustical standpoint or even from an installation or fabrication standpoint. There was nothing that really would stop us from doing it tomorrow, other than a code change.

Mr. Michael Mantha: If there was a concern from competitors, would you know what that concern would be?

Mr. Robert Kok: Currently, no.

Mr. Michael Mantha: Okay.

The Chair (Mr. Peter Tabuns): Thank you very much. We appreciate your presentation.

0920

CANADIAN INSTITUTE OF STEEL CONSTRUCTION

The Chair (Mr. Peter Tabuns): I now call on Ed Whalen, president, Canadian Institute of Steel Construction. You have up to 10 minutes for your presentation, and up to five minutes have been allocated for questions from committee members. Could you please state your name for Hansard, and you may begin.

Mr. Ed Whalen: Thank you, Mr. Chair. My name is Ed Whalen, president of the Canadian Institute of Steel Construction. We are the voice for the Canadian steel construction industry, representing all stakeholders, including steel mills, steel fabricators, erectors, suppliers, detailers, steel service centres, distributors, unions and professional consultants. Our members and associates represent over 70% of the steel used in construction in Canada.

The steel industry has been a builder of this country, supporting local communities, including the north, with employment and safe structures. Steel is the only product that can be almost infinitely recycled and repurposed. It is therefore a leading performer in life cycle analysis when considered over the true long life cycle that steel enjoys. Its performance has stood the test of time.

I am rather shocked to be here today discussing the merits of this bill, Bill 52. Why are we here? Why has this bill been introduced? Why now? These are the questions I have.

On the surface, this looks relatively harmless. Just a few more floors, right? Almost. It expands wood construction into structures not previously permitted by the building code, such as commercial and industrial structures. It proposes that wood construction jump to six floors, with no other safety provisions taken into account in this bill. Are you aware of that? How do you feel about

that? Are you familiar with the technical reasons why this isn't permitted today? So I ask the question to the committee: Do you really have a firm grasp on the outcomes of this bill? I'll come back to this point later.

I'll ask several more questions for consideration. Are you aware that there is a system in Canada for code change? If not, it's called the National Building Code of Canada. Experts in their field in each commission present, hear, review and make decisions based on substantiated peer-reviewed research. The process is governed by the Canadian Commission on Building and Fire Codes, which ensures that technical merit is considered while controlling biases and ensuring the highest degree of public safety.

Are you aware that after the National Building Code of Canada prints each edition, several provinces adopt the code immediately? They use the national building code as is. Others, like Ontario, review the national building code and from there develop a provincial building code. Again, experts within committees customize the national building code to fit Ontario's unique situations.

So if this is the case and there is a process for code change, why is this here? Why? You don't see the steel industry, the concrete industry, the cement industry or other industries—which all compete and are governed by the national building code and provincial building codes—lined up at Queen's Park looking for changes. So why the wood industry, the most heavily government-funded construction industry in Canada? Are they not able to do sound science that is peer-reviewed and accepted by the building code committees? Are you aware that the proposals in Bill 52 have already been rejected by the Ontario building code committees? Are you aware of that? The question is, why? One of the reasons was because the sound science and research, which we always use when we are approving changes, was not released to the technical committees. It remains private domain. Why? What is in that study—or maybe, what isn't in those studies? Why the secrecy?

Are you aware that the wood industry has been provided—and you were advised this morning that the federal government has provided money to do proper research, peer-reviewed research, by National Research Council Canada. That's ongoing.

If this is the case, why are we jumping the research? Why are we looking at this bill now? Why here, why now? Why is this an Ontario Legislature issue? I'm at a loss, to be quite honest.

Now that the bill and the wants of the wood industry are in front of you, you need to make a decision. So let's test: Do you have, does this committee have, does the Ontario Legislature have an understanding of the technical details and the ramifications of this legislation? Do you have the years of experience to understand the nuances of various building fires and why the fire chiefs are so passionately against this? I don't. But do you?

Do you have the experience and the technical knowledge to bypass the industry experts on these commissions? Are you ready to disband the building code process that is serving the safety of all Canadians and Ontarians so well over all these years, based on technical merit versus one of political influence?

I'm being blunt here, guys, gals. I'm dead serious. There are people's lives at stake here.

We look at other parts of the world and criticize the performance or lack thereof of their buildings. We don't understand why they can't build buildings like we do in Canada. The fact of the matter is, due to our codes and standards—it is those codes and standards that protect our citizens. The process works. No industry that has the proper research has ever been restricted by the building codes. Innovation and competition are constant. New products are being introduced all the time and the building code is forever changing.

We're not against the wood industry competing, as I heard earlier. We're not against the wood industry thriving. It's part of our industry, part of our GDP. Bring it on. It helps our industry.

What the steel industry is strongly against is the circumventing of due process within the building code for the preferential treatment of the wood industry and, most important, what appears to be political gain over what is most important: public safety.

If Ontario passes this bill that effectively shuts down the building code committee process—it does—industries will turn to the Ontario Legislature, to you, to get their demands. And why wouldn't they? Is the Ontario Legislature prepared to be flooded with building code changes and requests? Are you prepared to become the building code experts? You'll have to be. Which industries will you say no to? Will you say no to the steel industry?

The Chair (Mr. Peter Tabuns): You have a minute left.

Mr. Ed Whalen: At the end of the day, this bill takes away a job from a steelworker, a concrete worker, a mason, and gives it to a carpenter. There is no net benefit to the local economy or to the construction industry. You substitute a steel column for a tree.

The Ontario Legislature and political parties should be focusing on all our construction industries, realizing their niche and importance in a thriving construction economy. They all have their current competitive advantages, but innovation and research are key to their success, not bad policy.

For goodness' sake, let's legislate good policies, not ones intended to cheat the system. If the system is broken, let's together fix the system, let's together fix the building code, not override it.

Thank you very much.

0930

The Chair (Mr. Peter Tabuns): Thank you, Mr. Whalen. I see we were rotating questions. I'll start with the third party, government, then the opposition.

Mr. John Vanthof: Thank you for your presentation. In your opinion, this bill would, in effect, circumvent the building code?

Mr. Ed Whalen: Absolutely. This is not done, typically, across Canada.

Mr. John Vanthof: From your viewpoint, are there other jurisdictions across the country where the proposed regulation changes would be similar?

Mr. Ed Whalen: This has happened once before, in BC, without the due consideration of proper, peer-reviewed research. There's no research to support that legislation, no.

Mr. John Vanthof: This will be my last question, Chair. In your opinion—and perhaps this is not a fair question—could a six-storey building be built safely with wood?

Mr. Ed Whalen: I'm not expert to say. And this is the point that I'm making to you: Are you experts to be able to make that decision?

The Chair (Mr. Peter Tabuns): Thank you, Mr. Vanthof. The government—Mr. Colle?

Mr. Mike Colle: Thank you for the presentation, Mr. Whalen. I sort of want to say that I found your tone quite, let's say, unnecessary, given that it is the right of any member of this Legislature to bring forward a private member's bill and for a bill to come before a committee and to be debated, and that's what has been done in this case. We have hundreds of these bills that come forward, everything from nuclear power safety to child care issues.

Committees of representatives have a duty to debate, discuss and inform themselves about bills. That's what has been done in this case. My colleague from North Bay has introduced this bill as a private member's bill; he has the right to do it. I may disagree with it, but we have the right, as legislators, to debate, examine and inform ourselves about technical issues.

We don't make the final decision in isolation. This goes through a process of hearings and input from experts. In fact, the building code amendments that you see before us, in Ontario, have gone through similar committees. We sat through hours and hours of presentations on the Ontario building code amendments. We weren't experts, but I think we came up with a pretty good series of amendments to the Ontario building code.

So I just want to put that in perspective. I understand your concerns and I think they're valid concerns but I just disagree with your, basically, proposition that we have no right to do this. I say we have every right to debate, examine and analyze these issues. Certainly we're not experts, but that's why we have these hearings, to listen to experts like yourself.

So we appreciate—I think you had some very valid points. We take those into account and the process goes on. That's basically my comment.

The Chair (Mr. Peter Tabuns): Mr. Colle, thank you. I'm going to give the last minute and a half to the opposition.

Mr. Bill Walker: Very similarly to my colleague Mr. Colle, I think the challenge I'm having is, BC did this in 2009. So unless someone can tell me that there has been some structural challenge and someone has had safety as an issue, I'm looking at this as—you used the word "innovation" three or four times in your presentation. If we're not going to be innovative and we're not going to allow innovation, how does it get anywhere?

I look at this committee as, it's being brought forward as an idea, another alternative. There are two or three other provinces that are also looking at doing this. I understand, unless I'm incorrect in my assumption, that the national building code is looking to review this in 2015. So maybe what you're suggesting is, why is this getting here and short-circuiting?

But on the other hand, if the national building code in 2015, using evidence from the BC situation, would approve this, then I don't see any issue with being able to explore and look at an alternative that's going to fill in some gaps I think we've heard today. We've heard very strong thought process that the safety and the structural integrity of this type of building is sound from an engineering perspective. I think we're doing our due diligence to say we need to be innovative, we need to have construction moving forward, as your whole industry will benefit from that. So I am taken aback a little bit as well by how strongly and forcefully you've brought this thing that we don't have the right to look at it. Our job is to look at it and make sure that we do use due diligence to ensure we're looking at alternatives to what we have today.

Mr. Ed Whalen: Just to comment on that, the national building code and the Ontario building code would disagree that those sound research safety issues have been addressed. There is research going on by NRC right now to see whether there is, and the jury is out on that. So I think it is very, very premature for us to move forward down the road with something that hasn't been properly researched.

The Chair (Mr. Peter Tabuns): Mr. Whalen, thank you very much for your presentation.

Mr. Mario Sergio: Mr. Chair, if I may, on the rules, do we have five minutes on each side here?

The Chair (Mr. Peter Tabuns): I had understood we had five minutes in aggregate and we were rotating between the three parties.

Mr. Mario Sergio: No, I thought it was five minutes for each party.

The Chair (Mr. Peter Tabuns): I gather not.

Mr. Mario Sergio: Was it five minutes in aggregate?

The Chair (Mr. Peter Tabuns): Five minutes in the aggregate between the three parties.

Mr. Mario Sergio: In total?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Mario Sergio: Okay. Thank you.

The Chair (Mr. Peter Tabuns): That's what I understood when I came. It seems to be affirmed by the members of the committee.

Mr. Whalen, again, thank you very much.

TOWN OF HEARST

The Chair (Mr. Peter Tabuns): My next presenter: I call on Roger Sigouin, mayor of the town of Hearst, to please come forward. You have up to 10 minutes for your

presentation—I'm sure you've heard that before, this morning—and five minutes allotted to questions from the three parties. If you could—

Mr. Mario Sergio: There are more comments than questions, I would say. We can ask questions or we can make comments.

The Chair (Mr. Peter Tabuns): A fair comment. If you could state your name for Hansard and begin.

Mr. Roger Sigouin: I'm Roger Sigouin, mayor of the town of Hearst, but I would like to represent all northerners from Highway 11 to Highway 17. By the way, I just want to make clear, I'm not getting paid by a steel company or concrete company or wood company. I'm here to represent my people who are paying tax in Ontario. Thank you very much for giving me a chance to speak, Mr. Chair.

Our municipalities are on the Trans-Canada highway. Hearst is on Highway 11, and I'm talking about Thunder Bay to Sudbury, North Bay, on Highway 17. Hearst's population is about 6,000. I'm not going to go through all my presentation; I'm just going to skip, because I know a lot of people talked about almost the same thing and you understand what it's all about. My population is about 5,000 right now. We lost about 1,000 people because of the forest industry in our region, and I'm talking in Hearst. That's something that's really hard to go through. The catchment-area people were talking about 9,000 in my communities.

Northern Ontario has a healthy boreal forest that holds most of Ontario's natural resource wealth. We are successfully regenerating 2.5 trees for every tree that is cut, and in the Hearst forest alone, 2.6 million trees that are harvested are replaced by planting 3.9 million new trees each year. That is going right through the seed to the greenhouse, selling to the industries and planting trees in the forest. So we're getting involved quite a bit with the forestry sector. It's renewable and we take care of the forest just like it's our own backyard. It's our livelihood. We have been in the business for a long time. We used to have five major mills in Hearst. We are now down to three: Tembec in Hearst, Columbia Forest Products in Hearst and Lecours Lumber in Constance Lake First Nation. We do have value-added, a few kilometres from Hearst, Industries LacWood, that's creating about another 50 jobs.

We've got older, poorly educated workers who are losing their long-held jobs: 36.5% of Hearst's entire population over the age of 20 years does not have a high school diploma. Most small northern Ontario communities are struggling with a depressed economy. Our retail sector is hurting, and real estate values, both residential and commercial. Our young people are leaving as their opportunities for jobs and careers are in other places. So they're moving away.

Sure, we're going through the global factor. I think somebody talked about it. I'm not going to go through that because I don't want to repeat myself.

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In the community, people are saying on the road, "What's next? Who's going to hit us again? Is it a closure of another mill?" It's really hard to bring back our people in our community. People are asking when a mine is going to open in the north.

Hearst used to be one of the richest—we had the most rich people per capita in our town. It's not this anymore. A lot of people left, and we're just like Smooth Rock Falls, Elliot Lake or other places like this that have been hit pretty hard with the forestry industry. We've been hurting quite a bit.

For example, we know now that for every 125 mid-sized building structures that would be built with wood, the annual product of an average-sized Ontario softwood mill would be consumed, and at the same time, it would create 200 direct jobs. For the 200,000 men and women who rely on the Ontario forestry sector for their livelihood, changing the code would be a government initiative that would have a direct bearing on job retention and creation. We're not asking for money; we're just asking you to get involved to change that code.

Secondary-sector manufacturers of the lumber industry focus on the value-added product and are the key to growth in the forest industry and the various value-added products for sale exclusively to large international chains such as IKEA. That's LacWood industry's value-added. That's a champion we have in Hearst. He didn't have to go back in the industry. He just wanted to make an extension. He's in his early 60s and he wants to create jobs for his own kids, and he created about 50 jobs. Especially starting a business with the crisis we're going through right now, you need a champion to do that, and we had one, so we're pretty lucky.

We have a skilled force, but they are starting to leave for a brighter future in the south and west. We are entrepreneurs at heart, but we need a level playing field in our own Ontario market. The communities of northern Ontario depend on a brighter future for the forestry industry, and amending the building code to expand the use of wood in mid-size building construction is part of the solution that will assist in securing our jobs, our youth and our real estate equity.

I'm ready for questions. Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Mayor. The first question goes to the government.

Mr. Mario Sergio: Your Worship, welcome to Toronto.

Mr. Roger Sigouin: Thank you very much.

Mr. Mario Sergio: Thank you for coming down. Of course, we know you're supporting your people up north. Some of the previous speakers have been mentioning the social benefits and economic benefits of allowing this piece of legislation to change the building code and go to six storeys. Economically, how would this help your people up north? The cost of housing, I think it's the land that's the most important. I would say that up in your neck of the woods up there, land is a bit less expensive than in Toronto. I don't know the vacancy rate up there, the demands for affordable housing. Would you be interested in high-rises up there?

Mr. Roger Sigouin: Now we're looking, for the elders, to build another building close to the nursing

home. The nursing home has been built all in wood I would say eight or nine years ago. We're looking to build another building as well, to expand, because the elders are growing quite fast in northern Ontario. They don't want to move away.

Just to let you know, for the nursing home, when we built the nursing home—people who are living in the nursing home right now, that's the pioneers who used to work in wood. Imagine creating a building with concrete or steel, when those people always worked in wood. Now they're living in a building that's fully in wood, so they feel like home; they're not feeling like they've moved away. We passed a bylaw in Hearst that everything's got to be built with wood—with respect to steel and concrete, because I have a big company in Hearst that is making concrete as well. But that's the respect I do have for my pioneers retiring in Hearst today.

Mr. Mario Sergio: Thank you, Your Worship. No more questions.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Sergio. Mr. Fedeli.

Mr. Victor Fedeli: Thank you very much, Your Worship, for coming here from Hearst for this important morning today. We've already heard from the industry about the technical aspects of six-storey buildings. We've already heard about infilling in the greater Golden Horseshoe and the importance of it, so my questions for you will be purely about the north, if that's okay with you, Your Worship.

The unemployment in Hearst—if you could just talk about the population, the unemployment, the changes that have happened since the heyday, I guess, and if you could describe, perhaps, the heyday to today.

Mr. Roger Sigouin: To be honest, unemployment is not too bad. Why? My people are working in a mill. They are leaving home for a month or 20 days—20/20 or 14/14—but they are not with their families during that time. Like I said in my presentation, we do have a lot of hard workers in the north, and it's the same thing in Hearst or in Timmins or somewhere else. People know they have to go away to make sure that their family is going to live. They have to go and work somewhere else. So we just hope that we're going to be able to bring them back soon.

Mr. Victor Fedeli: Roger, that's the exact same scenario in the former lumber town of Mattawa, where 80% of the male population now work outside of the city and almost that number work outside of the province; they work in the oil sands—

Mr. Roger Sigouin: That's right.

Mr. Victor Fedeli: —as they do in Hearst as well, where they do 20 in and 10 out. It's a sad way to raise a family. We have found the social costs in Mattawa to be more significant because of the homes that have the father—and in this particular case, it is the father—that's away for 20 days a month.

The Chair (Mr. Peter Tabuns): Mr. Fedeli, if you don't mind, I'll give the remaining time to the third party.

Mr. Victor Fedeli: And thank you for acknowledging that, monsieur le maire.

Mr. Roger Sigouin: Thank you.

Mr. John Vanthof: Your Worship, thank you for coming. It's nice to see someone from farther north than I am.

One thing I'd like to say—and I hope you will agree with me on this—is a lot of people have the idea that because the population is less in northern Ontario, it's cheaper to live in Hearst or to build in Hearst, but actually, infrastructure costs are as high in Hearst or higher than they are anywhere else in the province. So there's just as much need for mid-level construction in Hearst to replace as there is anywhere else.

Mr. Roger Sigouin: Yes, it's true, and even when we have to travel somewhere else, there's always a cost to that. I mean, coming here today, it's a cost to the taxpayer and everyone. So, we're staying far away—infrastructure, yes, you're right; it costs more.

Mr. John Vanthof: And one other thing I'd like to highlight in what you presented: A lot of people have a misconception about the forestry industry. It is a renewable; it's like—I'm a farmer; it's like a big farm.

Mr. Roger Sigouin: That's right.

Mr. John Vanthof: If you could expand on that bit. It is like a farm. Northerners know that it has to be renewable because our kids want to work in the same industry.

Mr. Roger Sigouin: You're right. We do care about the environment. Yes, we made mistakes in the past; yes. But today, it's those special interest groups that are sending the wrong message to the population. I mean, it's not as bad in the north as they're saying, and we're facing that today. Maybe we did not do a good job on marketing the forestry sector or the farms and all that in the north, but we're hard workers, with not enough time to do that marketing.

I was tying that to the industry as well. You should put a little bit of money to make sure people in the south—and I'm not blaming the south at all—to just pass the right message, not to wait until those special interest groups try to come and—they don't want to come and live in the north. They want to live in the south, and that's okay. That's the choice they made, but respect the north. We respect the forests; we respect everything. That's our way of living.

The Chair (Mr. Peter Tabuns): Your Worship, thank you very much for the presentation.

Mr. Roger Sigouin: I thank you very much.

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RHC DESIGN BUILD

The Chair (Mr. Peter Tabuns): Our next presenter is Grant Roughley, RHC Design Build. Mr. Roughley? You have up to 10 minutes for your presentation, up to five minutes allotted for questions from committee members. If you could please state your name for Hansard and begin.

Mr. Grant Roughley: Sure. Good morning, I'm Grant Roughley, president of RHC Design Build. Please

bear with me; I've come down with a cold and lost my voice.

Our interest in attendance at this committee is to show our support for the proposed amendment. As a person with over 25 years in the design and construction industry—I've been involved as the head of RHC Design Build for six years, a company that was built around a methodology that doesn't have a preferred building system or method, but, rather, examines design constraints, user requirements and building program objectives, married with overall user constraints, be they budget, schedule, weather or environmental.

That led us over the last six years to be involved in some 400,000 square feet of mid-rise, wood frame building construction. Married with that, we've done a little over double that in other forms of construction: red iron, steel, concrete block, cast in place and, more recently, cold-formed steel panelized building systems, falling under the non-combustible category.

It's interesting to note that at a time of the financial meltdown across the years of 2006, 2007 and 2008, where we saw a significant drop in markets in the southwestern Ontario area—in the housing markets—we completed, for a local builder, a total of five mid-rise buildings that were sold out within hours. It was directly related to the price—the affordability—of the condominium product.

That brings me to one of the key points: that, contrary to some of the opinions that are being expressed, this is not a direct competition opportunity for the steel and concrete industry, as it may be presented.

It introduces a new niche market, and I want to present a little bit of information on specific, objective examples, rather than opinion, of our experience in terms of cost. So I'll speak first to a couple of examples. One is an opportunity to do a case study.

Two years ago, we had two buildings under construction, both four-storey buildings, both in the same geographic area, within a couple of percentage points of size, similar occupancies. We distilled both of the projects down to the similar properties, removed any components which would provide cost variations due to differing assemblies or use, but they were focused on a non-combustible construction system and a combustible.

Four-storey buildings: One was cold-formed steel panel, which was analyzed through two options, concrete block and cold-formed steel. Cold-formed steel was chosen by the client, even though it was 1% more expensive, because of the expediency, and they found they recovered the 1% savings.

At the same time, we released a project that was an engineered-wood-panel system—a fully wood frame, fully modular system. The end result of the analysis yielded a 23% reduction in the construction schedule, thereby minimizing the impact on what was a brownfield infill site; a 22% reduction in hard building costs.

It's interesting to note that it's not strictly the structural components of the building that are impacted through the combustible construction methodology in a mid-rise building. It affects over 50% of the individual budget line items. This is based on hard case study data; this is not projections, opinions or cost forecasting. This is based on a completed project.

In another case, an example of a recent project that's currently under construction, we had a housing authority in the Haliburton region with a fixed budget constraint. The building program called for a three-storey building to provide 24 affordable housing units for seniors.

It was requested that we examine a series of non-combustible construction options. When the budget reports came back to the client, it appeared that the project could not proceed. We then went back to the panelized wood system that we're using on other buildings currently and secured a structural price that, on its own, was $328,000 cheaper on a $2.9-million budget. That represents 11.3% savings on the structural system alone. That doesn't extend into the other, say, 49 budget line items that I referred to in the first case study.

This project is now proceeding. They have brought the project in under budget, and it is due to go to construction in the next four weeks.

In another example, we have a brownfield/infill site on one of our related companies, a development residential building company, that they were exploring developing for quite a number of years, in the Cambridge area. It was an existing industrial site. Without the addition of a mid-rise product at an affordable price, the project was not viable with simply a low-density single detached, row housing or townhouse component. With the introduction of two mid-rise buildings, it became marginally viable. If they were able to introduce an additional 50% density, i.e. a six-storey component, it became very, very viable. The project went ahead with the participation of the local municipality, but it has proven to be primarily a break-even.

To speak to the point about whether there's a competition with regard to the steel and concrete industry, I disagree. We have no preconceived notion about what our firm likes to build with. As I said, we've done more volume in non-combustible construction than we have in combustible construction in the mid-rise category, but we do believe it introduces a new niche market. It introduces an opportunity for municipalities—especially mid-sized municipalities outside of the GTA, but certainly in the perimeter of the GTA—to start to engage in repurposing existing brownfield and infill sites. There's an economic benefit there, as we all know. It utilizes existing infrastructure, which has an economic benefit to the community. When you go into those projects with a cost-effective building program that, as we've illustrated with our case study, has over 20% savings in building costs, it allows the builder to allocate more funds to the brownfield redevelopment, which has been prohibitive up till now, given that there is a requirement of a return on investment. Similarly, with housing authorities, there is a requirement to meet the budget constraints that they're given in terms of the funding that they have. So we view it as extending well beyond just the economic benefit of

helping an industry that has been devastated by the drop in the American housing market—but more specifically, with the opportunity to provide a new product at the affordable entry level and subsidize the housing niches in the Ontario market.

In closing, I would answer to the issue of safety that has been raised by some of the other industries that are opposed to it. I would caution that we can't suck and blow at the same time. If we are taking issue with the safety of the assemblies that protect these buildings—with the manipulation of the current Ontario building code, you can build a six-storey building by dropping a partial portion in the basement and putting a loft or a mezzanine on the upper floor. You will have six storeys. If there is an issue with the safety, we need to address that. The building code says that there isn't, and it's an approved and existing assembly. So it's important not to engage in fearmongering when we're addressing the economic and social benefits of this opportunity.

The Chair (Mr. Peter Tabuns): Thank you, sir. The first question goes to the opposition.

I want to say to all of you, we're running short on time. We have a teleconference coming in at 10:15. If we go too late, they will have almost no time. So I'm going to try to shorten this to three minutes for this round of questions, just to make sure that every presenter gets a chance.

Mr. Fedeli?

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Mr. Victor Fedeli: Thank you. I'll keep mine to within a minute. As I said earlier, we seem to be seeing a theme, from RESCON, the wood council, the Kott Group, Great Gulf and now you, that this is a new niche market. This is something that provides no competition. I found just one bit of what you said not definitive to me. You talked about the 23% reduction in the construction schedule, and you talked about the 22% reduction in the hard building cost, but it wasn't definitive that you were speaking about the engineered wood product.

Mr. Grant Roughley: Yes, it was. It was an engineered—a fully panelized building. Yes, correct.

Mr. Victor Fedeli: Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Fedeli.

Mr. John Vanthof: I have just one question—

The Chair (Mr. Peter Tabuns): Mr. Vanthof.

Mr. John Vanthof: In your capacity, if a client came to you, you would have no problem, from a safety point of view, building a building under this amendment.

Mr. Grant Roughley: No. We're engaged currently by three different home building corporations in Ontario who have come to us looking for this new entry-level product to enhance their inventory and deal with the need for higher density at an affordable price. So, no, we feel that there are very strong existing standards. We follow best practices. We also—I would extend probably, when we talk about risk management, the fact that you can't build these products without proper underwriting in terms of the insurance industry, who are the king of risk management. Whether the building code implemented best practices or not, I can tell you that the insurance industry—risk management people—are there to force that best practice.

Mr. John Vanthof: Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Vanthof. Government?

Mr. Mike Colle: Yes. I'm just trying to understand. Your new niche product: Is that for mid-rise or is it for individual homes? How can it be used?

Mr. Grant Roughley: It's mid-rise density. The low-rise single-family or multi-family industry is very well established, very cost-effective and utilizes modular construction already. This is an opportunity for the mid-rise building product. It has been proven at a four-storey level, with land prices and infrastructure costs continuing to increase and lot levies becoming a larger burden. The added 50% density which distributes your servicing, your land and your soft cost components further across the building cost or the unit cost—it creates a better economic opportunity specific to areas like brownfield and infill sites, which allow municipalities to optimize their existing infrastructure.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Roughley. We appreciate your presentation.

CEMENT ASSOCIATION OF CANADA

The Chair (Mr. Peter Tabuns): Our next speaker: Michael McSweeney, president and CEO, Cement Association of Canada. Mr. McSweeney, you have 10 minutes, or close to. We'll have questions; and if you can state your name for Hansard and begin.

Mr. Michael McSweeney: Thank you, Mr. Chairman. I'm Michael McSweeney. I'm here today on behalf of Anne-Marie and Jean-Paul Bonin, the latest victims of a fire in a wood structure in Ottawa last weekend, and on behalf of the 11 fallen firefighter heroes that you, MPPs, honoured last night, who died fighting fires in the last three years.

Cement, concrete and aggregate facilities are located in most ridings across Ontario and are an important industry, supporting a $37-billion construction industry. Our industry, too, has been hit significantly by the recession. We also know that we weren't the only industry affected. We know that there has been a decline in the wood industry as a whole—something that has affected the forestry industry's competitiveness.

Let me assure you, though, that those same macroeconomic forces that have hurt the forest industry have affected other building material suppliers as well. Other industries, such as cement and steel, are located in the same small cities, towns and communities across Ontario and have been equally and negatively impacted by the current economic climate. Our members in the cement industry have experienced the largest decline in Canadian and US cement consumption since the Great Depression.

We too continue to struggle with the declining demand in both domestic and export markets. Our exports are

down over 40% and are very slow in coming back. The high Canadian dollar and rapidly increasing electricity prices and labour costs have led to competitive pressures on the cement industry. Our industry is having a tough time competing with imports from the US and other countries. Everyone has been affected by this recession, Mr. Chairman and committee members, not just the wood industry.

As manufacturers of a fundamental and essential building material, the cement industry is committed to sustainability. We believe it's important to quantify and assess the environmental and economic impacts of infrastructure development over the long term. Our motto is "Build it once, build it right, build it to last."

I want to highlight a quote from the president and CEO of Earth Rangers. Earth Rangers is a non-profit charitable organization dedicated to educating people about biodiversity loss. When talking about their own building, a concrete building, Mark Northwood states:

"We chose concrete as the material of choice for our building because of its comparatively low impact on biodiversity, its longevity and thermal qualities"—they are beyond none. "We also believe in aggregates as a top choice for building materials because of the cement industry's ability to recover, and, in most cases, increase the state of biodiversity on their properties."

We agree with what Earth Rangers has to say. We do not have to clear-cut forests to provide the construction materials to build our cities, our infrastructure and our public transit.

We believe that cement and wood are complementary building materials. We respect the wood industry, and we are partners with them in the construction industry. Having said that, what is paramount is that all construction materials should operate on a level playing field and in a fair, competitive and open economic environment. We support the philosophy of using the right material for the right job, and we also support the fundamental concept that it should be left to licensed experts—the architects, the engineers, the insurance bureaus—and not legislative bodies to decide what building materials should be used in building projects. We believe that policies such as "Wood first" that artificially promote one material over another should be avoided. Government should not be robbing Peter to pay Paul.

Today, I want to talk to you about the proposed changes which would allow amendments to the Ontario building code with respect to the height of wood frame buildings. The Cement Association of Canada believes it's important to ensure that any proposed changes to the Ontario building code address the best interests of Ontarians. It's essential that all proposed changes go through a proper code development process, with due oversight prior to any changes being adopted.

There is a well-established code system in Canada that has served the best interests of Ontarians for decades. We must take politics out of this decision. Politicians are simply not equipped to make these kinds of decisions.

At last spring's meetings of the Ontario part 3 and 4 technical advisory committees, both of these committees—Ontario technical committees—rejected the proposed mid-rise wood frame construction code changes. They rejected 13 of the 14 changes put forward, and today, despite these recommendations by your own committee, we are dealing with a private member's bill seeking to overturn the recommendations of those technical experts to whom we entrust Ontarians' safety. This, Mr. Chairman, at best, is an extremely regrettable situation.

If you want to wade into this discussion, it would be prudent to review these recommendations from the experts. First and foremost, it must be ensured that all safety concerns are being addressed prior to changes being made. We do not want to circumvent the technical decisions that have already been on record with the MMAH.

Buildings that could be affected in these changes include those that house the most vulnerable of our citizens: retirement homes, subsidized housing and nursing homes. We have heard in the news recently those examples of elderly individuals in retirement homes who have died as a result of the fire and the resultant call for sprinklers in these wood buildings. A recently released coroner's report called for a retroactive installation of sprinklers in the 4,300 wood buildings that are out there for vulnerable people like senior citizens and those in nursing homes.

We commend the Liberal government for announcing in April that the office of the fire marshal would undertake a technical consultation to identify fire safety improvements in residences with seniors, people with disabilities and other vulnerable groups. We also hope the government will look to private members' bills from the past, like those from the NDP's Michael Prue, that called for, at the very least, concrete stairwells so that residents and firefighters could exit and enter safely in the case of a fire.

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It's important that consultations like these carefully consider the effects of a 50% increase in wood storey construction. It's about the safety. It's about the safety of the people, the vulnerable people who live in these buildings. It's about the safety of our heroes, the firefighters that are called upon to fight these potential fires.

Currently, the National Research Council and the Canadian Wood Council are involved in an extensive two-year project entitled Wood and Wood Hybrid Mid-Rise Buildings. This project will investigate the mid-rise wood changes recently adopted in British Columbia. The results of the test program will form the basis for any changes that will be proposed in the 2015 national building code. If you are intent on proceeding with changes to that code—that appear to focus solely on politics, I might add—then it would be wise to wait until this work is done before rushing to accept untested applications in Ontario.

Above all, you should be concerned—

The Chair (Mr. Peter Tabuns): You have one minute left.

Mr. Michael McSweeney: —about the safety of our citizens. There was a fire in BC's first six-storey wood frame building, which was under construction at the time.

Many associations, firefighters, fire safety, pre-cast, masonry, cement, concrete and steel groups have also highlighted the need to put safety first. We must take politics out of this discussion and leave it to the experts. Safety is too big a concern to do otherwise. Thank you.

The Chair (Mr. Peter Tabuns):. Thank you, Mr. McSweeney. The NDP is the first up. I just want to say we're tight for time if we're going to bring in NOMA to speak in a minute or two, so if you could make your question quick and to the point.

Mr. John Vanthof: I take a little bit of offence, because I think we are all very concerned about safety. You referenced a couple of times that people died, and that's very—but are you saying that four-storey wooden buildings that are in place now aren't safe?

Mr. Michael McSweeney: It's intuitive: Wood burns; concrete doesn't; steel doesn't.

Mr. John Vanthof: Next.

The Chair (Mr. Peter Tabuns): Government.

Mr. Mike Colle: We'll pass.

The Chair (Mr. Peter Tabuns): Mr. Fedeli.

Mr. Victor Fedeli: I must say, Mr. McSweeney, that I am equally offended by your presentation, as I was with the tone of the steel institute's. You took it a step further with the invoking of the unfortunate deaths of the people. I can't even go there to that debate. I apologize that I won't get into that side of it; it would pain me too badly.

You also talk about the fact that politicians are not equipped to discuss this, yet here we are, discussing every issue from highway safety—I'm not a traffic engineer, I'm not a safety engineer, yet we make critical decisions every day based on the information that we're given.

I am very thankful to the other presenters for giving us a respectful tone and respectful and helpful information in making our decisions.

Mr. Michael McSweeney: Thank you. We too are offended by this bill coming forward, and offended that you will not listen to the 13 of 14 recommendations that have come forward from the part 3 and 4 technical committee to the Ministry of Municipal Affairs and Housing. Those are the experts. Are you a structural engineer, Mr. Fedeli? They are. Thank you.

The Chair (Mr. Peter Tabuns): Mr. McSweeney, thank you for your presentation.

NORTHWESTERN ONTARIO MUNICIPAL ASSOCIATION

The Chair (Mr. Peter Tabuns): I'll now call on Iain Angus from the Northwestern Ontario Municipal Association, who is joining us by conference call. Iain, if you're there, it's Peter Tabuns. I'm chairing the meeting. Can you hear us?

Mr. Iain Angus: Good morning, Mr. Chairman. Yes, I can. I've been listening for about the last hour or so.

The Chair (Mr. Peter Tabuns): My goodness. Iain, you have 10 minutes, and then I think the bells will ring for us to go into the Legislature. If you wrap up before 10 minutes, we'll try and get some questions in. Please commence.

Mr. Iain Angus: Okay, thank you, Mr. Chairman and members of committee. I gather you have a copy of my presentation. I may skip over parts in order to give you time to ask me some questions within what's left. I know you can't miss the bells.

A couple of context points first: I'm a councillor with the city of Thunder Bay; I'm a vice-president of the Northwestern Ontario Municipal Association; but probably more importantly, I'm the past chair of the Ontario Forestry Coalition, which worked with many of you over a number of years to try and stave off what became a perfect storm.

NOMA represents 30 municipalities from Kenora to Rainy River in the west to Hornepayne and Wawa in the east. We've got a long history of involvement in the forest industry. In fact, for many decades, many of our communities relied solely on that industry as the main source of jobs, taxes and prosperity. Those communities have been decimated.

We think that this particular bill, Mr. Fedeli's bill—and we thank him for bringing it forward—is one way to help rebuild the industry. Bill 52 represents an opportunity to help revive the struggling forest industry to facilitate greater use of wood in buildings by increasing the maximum height limit of wood-framed buildings from four to six storeys. Creating demand for Ontario's wood products supports the forest industry—a key economic sector of the province—by increasing opportunities to build with wood from Ontario's sustainable managed forests. These are not clear-cuts; these are sustainable managed forests. The proposed code changes support forest industry jobs and forest-dependent communities, which aren't just located in the north, by the way. Many forest-dependent communities are located in southern and eastern Ontario.

This change will provide more design and cost options for developers and could help facilitate the construction of more mid-rise buildings, as well as providing more intensive uses within existing neighbourhoods at a scale that contributes to transit-supported, pedestrian-oriented, mixed-use neighbourhoods.

The addition of light wood frames for mid-rise construction will increase competitiveness in the Ontario construction industry. According to developers, architects and engineers, the key features of mid-rise, light wood-framed structures that reduce construction costs include: lower labour and material costs, reduced construction time, improved quality through off-site fabrication, wider range of labour available, ease of running services and improved productivity levels. Some developers have speculated on wood offering up to a 20% discount on traditional construction costs.

Furthermore, we would like to take the opportunity to remind you that wood is the only renewable construction material. Let me repeat: the only renewable construction

material. The expanded use of wood is good for the environment because it captures and stores carbon dioxide from the atmosphere that would be released back into the air if the trees are burned or decomposed. In addition, an increase in demand for wood will encourage further forestation, and those tree seedlings will continue to capture carbon dioxide as they grow.

In the past 18 months, the city of Thunder Bay has seen two significant projects utilizing wood in their construction. The first is the Thunder Bay District Social Services Administration Board headquarters, and it fully implements the use of wood in construction as shown in the photos below.

For those of you who have the photos before you, it's hard to notice, but the vertical beams—if you look at the top, you'll see that all those vertical beams are laminated wood structures. They were fabricated off-site by the builder and installed in place, and it was really quite amazing to watch this building go up.

The second project is at Confederation College, which recently completed an expansion of one of their buildings to construct their Regional Education Alliance for Community Health, or REACH, facility. The expanded building features a very impressive concourse area with three-storey-high wood beams and has been designated as a Canadian Wood Council demonstration building. The college was committed to including a wood feature in their construction in recognition of the importance of forestry to our region.

Information provided by the Canadian Wood Council shows that for every 125 mid-rise structures of six storeys built in Ontario under the amended building code, the amount of wood used would sustain a mid-sized softwood lumber mill and approximately 200 direct mill and woodland jobs.

Prior to the forest sector crisis, there were 11 sawmills in operation in northwestern Ontario. Eight of those sawmills have now been permanently closed, one is operating, although it's down this week, and two remain idle indefinitely, waiting for the market to improve.

There is no doubt that these proposed changes to the Ontario building code would result in increased demand for lumber products that we believe would allow these two idled sawmills in northwestern Ontario to resume production, providing much-needed jobs in our communities.

The business community is also supportive of this legislation. In 2010, NOMA forwarded its resolution of support for the building code changes to the Thunder Bay Chamber of Commerce and the Northwestern Ontario Associated Chambers of Commerce, both of which have passed resolutions in support. Furthermore, a similar resolution was also recently adopted by the Ontario Chamber of Commerce at its annual meeting in St. Catharines at the beginning of May. It is clear that these business organizations recognize the incredible value of a strong forest industry to the economy of our province.

1020

As the Ontario economy continues to sputter, the changes proposed to the Ontario building code in Bill 52 would provide an economic boost by opening new markets in Ontario. We encourage the committee and all members of the Ontario Legislature to support this bill and, in so doing, support the Ontario forest industry.

Mr. Chairman, if I may, one final comment: I listened with interest to the presenter who preceded me and his reference to the fact that steel and concrete do not burn. I draw the committee's attention to an accident that happened, I believe it was on the 401, about 15 to 20 years ago where a tanker truck exploded on one of the overpasses and totally destroyed that concrete and steel structure. Nothing is impossible to burn. We need to recognize that what we need to do is make sure that our building code protects occupants of any building, and that's why there's a current debate about the expansion of sprinkler systems throughout all buildings, regardless of the method of construction.

I leave it to you, Mr. Chairman.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Angus. We will commence with the government.

Mr. Mike Colle: Thank you very much for the time, Councillor, and the input on this. Given some of these issues that have been raised, have you ever received a commentary or any kind of input from the Ontario fire marshal's office or the Ontario Association of Fire Chiefs on the safety issues raised?

Mr. Iain Angus: No, we haven't, and we have been quite public about our support of the initiative, but nobody has come knocking on our door.

Mr. Mike Colle: So you don't know of any comment that they've ever made on this suggested building code amendment?

Mr. Iain Angus: Not directly to NOMA. There may be, and if there are, we are not aware of them.

Mr. Mike Colle: Okay. Thank you, Councillor.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Colle. The opposition: Mr. Fedeli?

Mr. Victor Fedeli: Because of the time, we're going to yield. We just wanted to say, thank you very much, Councillor, for your support of this and for NOMA's support as well.

Mr. Iain Angus: Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Fedeli. Mr. Vanthof or Mr. Mantha?

Mr. John Vanthof: I'd also like to thank you for your presentation and for once again, reinforcing against the popular misconception that our forests in northern Ontario are mismanaged. They're not mismanaged, and they're totally renewable resources. Thank you very much.

Mr. Iain Angus: Thank you.

The Chair (Mr. Peter Tabuns): Mr. Angus, thank you very much. To all the presenters today, my thanks. This meeting stands—

Mr. Mike Colle: Can I ask—I have a motion, Mr. Chair.

The Chair (Mr. Peter Tabuns): Sorry. That concludes the business for today.

I want to remind the committee that any proposed amendments to the bill should be filed with the committee clerk by 5 p.m. on Monday, June 4, 2012. Please contact legislative counsel for assistance in drafting amendments. Clause-by-clause consideration of Bill 52 is scheduled for Wednesday, June 6, 2012.

Mr. Colle?

Mr. Mike Colle: I was just wondering if we can get research to contact the Ontario fire marshal's office to comment on the safety issues as related to this building code amendment.

The Chair (Mr. Peter Tabuns): I think that, yes, we can do that.

Mr. Mike Colle: And to make it available for members of the committee?

Interjection.

The Chair (Mr. Peter Tabuns): Oh, on the record? Yes, please.

Ms. Sidra Sabzwari: Yes, we can do that. Do you have a deadline?

Mr. Mike Colle: Plus, can you get commentary for the committee from the Ontario part 3 and 4 technical advisory committee on the building code amendment? If you can get some information from them for the committee members, that would be—

Ms. Sidra Sabzwari: Sure.

Mr. Mike Colle: I would request that information.

The Chair (Mr. Peter Tabuns): Could you just be a bit clearer? I'm not sure they picked up your "sure."

Ms. Sidra Sabzwari: Yes, we can do that. But do you have a deadline that you need this by?

Mr. Mike Colle: If you could just try your best.

Ms. Sidra Sabzwari: As soon as possible?

The Chair (Mr. Peter Tabuns): Before the committee meeting.

Ms. Sidra Sabzwari: Sure.

The Chair (Mr. Peter Tabuns): The meeting now stands adjourned.

The committee adjourned at 1025.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 6 June 2012

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 6 juin 2012

The committee met at 0901 in room 151.

ONTARIO FORESTRY INDUSTRY REVITALIZATION ACT (HEIGHT OF WOOD FRAME BUILDINGS), 2012

LOI DE 2012 SUR LA REVITALISATION DE L'INDUSTRIE FORESTIÈRE DE L'ONTARIO (HAUTEUR DES BÂTIMENTS À OSSATURE DE BOIS)

Consideration of the following bill:

Bill 52, An Act to amend the Building Code Act, 1992 with respect to the height of wood frame buildings / Projet de loi 52, Loi modifiant la Loi de 1992 sur le code du bâtiment en ce qui a trait à la hauteur des bâtiments à ossature de bois.

The Chair (Mr. Peter Tabuns): Good morning, everyone. The Standing Committee on Regulations and Private Bills will now come to order. We're here for clause-by-clause consideration of Bill 52, An Act to amend the Building Code Act, 1992 with respect to the height of wood frame buildings. The title is postponed until all other sections have been considered.

I have to ask, are there any comments, questions or amendments to any section of the bill and, if so, to which section, before we proceed with clause by clause.

There being none, shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 52 carry?

Mr. Mike Colle: Recorded vote.

Ayes

Jackson, Vanthof, Walker.

Nays

Colle, Sergio.

The Chair (Mr. Peter Tabuns): The bill is carried. Shall I report the bill to the House? Carried.

And that is the business before us. Committee adjourns.

The committee adjourned at 0903.

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COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Jeudi 7 juin 2012

The committee met at 0901 in room 228.

LABOUR RELATIONS AMENDMENT ACT (FAIRNESS FOR EMPLOYEES), 2012

LOI DE 2012 MODIFIANT LA LOI SUR LES RELATIONS DE TRAVAIL (ÉQUITÉ À L'ÉGARD DES EMPLOYÉS)

Consideration of the following bill:

Bill 77, An Act to amend the Labour Relations Act, 1995 with respect to enhancing fairness for employees / Projet de loi 77, Loi modifiant la Loi de 1995 sur les relations de travail en vue d'accroître l'équité à l'égard des employés.

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order. We're here for public hearings on Bill 77, An Act to amend the Labour Relations Act, 1995 with respect to enhancing fairness for employees.

Just as a note to committee members and our guests today, we have an awful lot of people who want to talk to us. I'm going to be very sharp on the time; otherwise, we'll wind up with people being left off.

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 79

The Chair (Mr. Peter Tabuns): I'll now call on Tim Maguire, president of the Canadian Union of Public Employees, Local 79, to come forward. Mr. Maguire, you have 10 minutes for your presentation, and up to five minutes have been allotted for questions from committee members. Please state your name for Hansard and begin. Thank you.

Mr. Tim Maguire: My name is Tim Maguire. I'm the president of CUPE Local 79. Here in Toronto, we represent approximately 20,000 members—city of Toronto inside workers, Toronto Community Housing Corp. and at Bridgepoint hospital. In the city of Toronto we represent people that work in public health, long-term care, employment and social services, parks and recreation, housing, and court services. We are child care workers, ambulance dispatchers, city planners, hospital workers and, to get more specific, we also represent cleaners that work throughout the city and particularly at the police stations in Toronto. In the course of their work day—the programs and services that our members provide—they come in contact with the entire spectrum of the diversity of the city of Toronto. They touch lives across the city of Toronto with the services they provide.

CUPE Local 79 is wholeheartedly in support of this bill, Bill 77. Every worker in Ontario deserves to be able to exercise their democratic right of freedom of speech, of freedom of assembly, without reprisal. Canadians have a proud tradition of placing a high value on these rights. Ontario workers deserve nothing less, to do what can be done to protect those rights. Unfortunately, under current law, employers can bully, intimidate and even fire, often with impunity, merely for attempting to organize. Bill 77, the Fairness for Employees Act, enhances Ontario's Labour Relations Act with a few modest, uncontroversial—or should be seen as uncontroversial—reforms that can be easily implemented with support from all parties in this place.

In 1995, the Harris government enacted legislation called the Labour Relations Statute Law Amendment Act. At the time, the act was dubbed by many critics as an act to gut the rights of Ontario workers, and in many ways it did just that. That piece of legislation essentially eliminated 50 years of progressive labour law tradition in Ontario.

CUPE Local 79 believes that Bill 77 will begin the necessary return to an era when more progress was at least being made, including under former Premiers John Robarts, Bill Davis and David Peterson. All of the workers in this province need to have the fundamental democratic right to organize. If workers want to organize under that right, an employer should not be able to threaten them with job loss. That's just wrong and flies in the face of the democratic rights that so many workers over the past century have worked so hard to achieve and made so many sacrifices for.

Vulnerable workers need to have the tools to protect themselves. This current legislation is often failing the most vulnerable workers in Ontario, many of them who are women, first-generation Canadians and part-time workers. Bill 77 will give them much-needed tools and will help to make workplaces across this province better for all workers.

To talk about some of the specifics of Bill 77, it would provide more protection under successor rights when businesses are sold, for some of the most vulnerable

workers; for example, cleaners and food service employees. The issue of cleaners earning a living wage, which our members do, is very near and dear to our hearts. Unfortunately, cleaners working for many of the contractors in the cleaning sector earn only poverty wages. Many of these contractors are non-union and often ignore employment standards and WSIB rules, and misclassify employees to avoid mandatory payroll deductions.

There is an agenda which seeks to reduce wages in the cleaning industry from the official wage in the cleaning industry to minimum wage—to as close as they can get to minimum wage. Currently at the city of Toronto, contracts are going out at under $13 an hour, even in police stations where those workers ensure that not only the public but the officers that serve the public are safe from contaminants and that those workplaces and public buildings are clean.

Some have stepped up in order to ensure that that floor does not go too low. The Toronto and York Region Labour Council has done a lot of work on this, and there are some city councillors who have stepped up to ensure that cleaners are treated with respect and have a decent standard of living for the services they provide. Again, it's also about ensuring that people are safe, not only the public but, in the instance of police stations, officers as well.

Whether it is at police stations or other areas at the city of Toronto, cleaners in the private and public sectors deserve to have a living wage. Again, there is a move there to drive down that wage as far as possible from the official wage, and then things happen where there is subcontracting and attempts to get around the law and pay even less.

In terms of interest arbitration procedures for a first contract, Bill 77 amends the current act to provide an additional route for binding arbitration. I think this will be helpful to parties who have applied to the Ontario Labour Relations Board to direct the settlement for a first collective agreement by arbitration.

Again, all too often workers can be threatened with termination or other intimidation when attempting to organize. We think this bill goes in the direction of trying to have that stop.

So, what are we looking for? In conclusion, I would just say that all the elected members of this Legislature should see these amendments as not too much to ask for. There are those, as I said, stepping up to try to ensure that the floor for workers, in terms of wages and other standards, does not fall. There are a few amendments here that are easily done and easily administered, so the Legislature should support these measures.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Maguire. We have five minutes for questions, and we start with the official opposition.

Mr. Jim McDonell: Thank you, Chair. I know that you highlighted some of the issues with the cleaning industry, but this is really a bill that affects all people in Ontario. I'm somewhat concerned why you would think that the free and open ballot fails us. It's really the basis for our democracy and the basis for everything we do. Why, in the case of giving people a choice of whether they belong to a union or not, does it fail the system?

Mr. Tim Maguire: First, your first statement is absolutely correct. This is something that would benefit all workers in the province. I come from a farm background, and there are folks there who need the help of this Legislature at some point as well. Workers across the province should have the right to be able to organize without intimidation. That's the point here. Workers need to know that they can organize without fear of reprisal, and it would be turning a blind eye if we thought that there weren't reprisals and intimidation happening when workers attempt to organize into a trade union.

Mr. Jim McDonell: But you still haven't answered my question. I think you're trying—the effort to move toward a more significant card-based certification versus a free and open ballot. In my mind, if it's a secret ballot your choice is really your choice. Nobody else knows that, whereas in card-based certification everybody knows. So I really see that as a retraction from people's rights.

0910

Mr. Tim Maguire: Others will be able to answer that more specifically, but my understanding is that if people have signed up for cards, they've already put their name on their wish to belong to a trade union.

Mr. Randy Pettapiece: I see here that you are looking for telephone and online certification votes; is that correct? Is that part of your proposal?

Mr. Tim Maguire: That's part of the bill.

Mr. Randy Pettapiece: Do you not see a danger in this type of thing, that it could lead to some fraud?

Mr. Tim Maguire: I think that it's something that should be explored and there could be measures put in place to protect.

Mr. Randy Pettapiece: In this day of online things, you know as well as I do—at least I think you would—that it's fairly simple for the wrong person to get hold of this thing and do some fraudulent practices. That's what I have an issue with on this bill, that we could see some things done and it would be very hard to track that if we were to permit the telephone and online certification. Can I ask your opinion of that?

Mr. Tim Maguire: Someone else will probably address that more specifically today. I'm here to talk about the other aspects—the intimidation factor in people trying to organize.

Mr. Randy Pettapiece: Thank you.

Mr. Jim McDonell: I guess, being from the farm as well, I've been aware—I worked with many organized groups and I fail to see how stepping away from the secret ballot would lead to anything but intimidation, whether it be on either side, because we, of course, have heard both sides of the story. Any time that your vote has to be exercised or can be exercised in front of somebody, I just have a problem with that. People should not, at the end of the day, know how you voted. That's the whole basis for our country. It's been something we fought for

over many wars and something that the Progressive Conservative Party stands for, and I just can't see going against that belief.

Just to add, we've been through municipally with some electronic voting. We've had some charges laid for different candidates in some of the areas close to us. I hate to bring up those charges because I know that—I'm sure with the system that's in place, where you receive cards in the mail, there are just problems with it. Although there was one court case, I don't think people have any idea what the real problems are in a case like that. It really comes down to a system that's open to abuse. Even if it's not abused, it loses a lot of its credibility. Anyway, thank you.

Mr. Tim Maguire: I guess it depends on the intent of one's use for that technology. I don't know that the two are related.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Maguire. Before we—you're finished. That's okay. I just need to check with the committee on something.

We didn't have clear instructions from the subcommittee on how questions would be asked. Typically, we have gone five minutes to opposition and then the next questioner gets five minutes and so on. Is that the system that you, as a committee, want, or do you want to split the five minutes?

Mr. Taras Natyshak: Five minutes of rotation, sounds good. Sure.

The Chair (Mr. Peter Tabuns): Okay. So you would get the next question. The Liberals would get the next question and so on. Okay.

Interjection: If time permits.

The Chair (Mr. Peter Tabuns): If time permits. Okay. Thank you very much, Mr. Maguire.

Mr. Michael Coteau: Mr. Chair, with the understanding that if there's leftover time, will it go to another person?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Michael Coteau: Perfect.

The Chair (Mr. Peter Tabuns): We're all good.

CANADIAN UNION OF PUBLIC EMPLOYEES ONTARIO

The Chair (Mr. Peter Tabuns): The next speaker: Mr. Fred Hahn, president, Canadian Union of Public Employees Ontario. As you know, you have 10 minutes for your presentation. There will be up to five minutes of questions. Please give your name for Hansard and begin.

Mr. Fred Hahn: Good morning. My name is Fred Hahn. I'm the President of CUPE Ontario.

CUPE represents workers in virtually every riding and every community in the province—in municipalities, in hospitals, in long-term-care facilities and home care, in social services like child care and Community Living, and thousands more work in our public schools and our universities all across the province.

First of all, on behalf of our 230,000 members in the largest trade union in the province, we're extremely pleased to appear before you as the standing committee on Bill 77.

I want to express special thanks to the member from Essex from the NDP, the labour critic, Taras Natyshak, for bringing forward this long-overdue legislation.

Bill 77 is entirely grounded in Ontario's historical approach to mature, responsible and democratic employer-employee relations. It's about supporting the rights of workers to make individual decisions about joining or not joining a union and to do so democratically and free from fear of losing their job.

Bill 77 has five basic components. The first is access to employee lists. By allowing unions access to employee lists, information that only the employer holds, it makes it possible to alert workers to the fact that there is an option in joining a union and it is one that they are legally entitled to consider. It puts those employees in a position where they can ask for information about what the union option entails. None of that is possible now, because the union can only talk to certain employees, because the employer has the information, and under current provisions, lists are only accessed at the end of an organizing campaign, two days prior to the vote.

The second provision of the bill speaks to neutral voting locations. Now, I would ask you all to think about whether it would be appropriate in a provincial or federal election to allow a polling station to be located inside the offices of one of the political parties running in the election. I think we would all think that wasn't appropriate, but under the current law, the vast majority of union representation votes actually happen on the premises of the employer. The same logic that we follow in our provincial and federal elections ought to apply to these kinds of votes, union representation votes in workplaces, and that's what Bill 77 would ensure. Otherwise, we make a mockery out of the notion that workers should be able to make a choice free from the fear of losing their jobs.

The bill speaks to first-contract arbitration. Now, when there's no tradition of collective bargaining between an employer and employees, and things break down—there could be a standstill with no resolution in sight, the possibility of a strike or a lockout looming—what Bill 77 would allow is a resolution of the matters in dispute by a referral from either party to binding, neutral, third party arbitration. This same kind of provision has been working successfully in Manitoba, for example, for many years, and implementing it here would ensure a peaceful resolution to what can sometimes be difficult first-contract negotiations.

In a study published earlier this year, Susan T. Johnson found that first-contract arbitration reduces the incidence of work stoppages associated with negotiating first agreements by a substantial and statistically significant amount. She also found that there is no evidence to suggest that the parties involved in negotiations of a first agreement rely on arbitration to settle their differences. Application rates and imposition rates are low across jurisdictions where this exists. It appears that the

presence of first-contract arbitration legislation creates an incentive for both parties to reach an agreement without resorting to work stoppages or arbitration itself.

The bill speaks to extending successor rights to vulnerable workers. By extending Ontario's existing successor rights law to workers in the security industry, in cleaning, in housekeeping services, in food services and in home care, Bill 77 allows thousands of vulnerable workers to enjoy the same rights already enjoyed by other workers. Since the 1950s, Ontario has realized that employees who legally form a union shouldn't lose those rights simply because the business is sold or transferred, something over which they have no control. However, under a previous government, some of these measures were removed and only partially restored later on. While we applaud the restoration of successor rights, many workers and employees in precarious areas remain excluded, and Bill 77 would remedy that. This loophole would be fixed by Bill 77, by allowing workers in all sectors to have the same basic rights enjoyed by other workers in Ontario.

Of course, the bill speaks to reinstatement pending a hearing. This is based on the notion that all of us should be considered innocent until proven guilty, but this is especially true in a workplace organizing drive, firstly, because even if a worker is reinstated in a workplace after a hearing that could involve several days or weeks or months, many workers simply can't contemplate the consequences of themselves and their families having any delay between work and pay. Secondly, and perhaps more importantly, it is the chill effect that necessarily comes about when workers see one of their colleagues, someone who they knew was supportive of a union campaign, simply disappear from the workplace.

Without this provision in Bill 77, the message is clear: If you support unionization, you put your job at risk, and that severely undermines the premise of Ontario labour law, which says that workers should have the right to freely choose to join or not join a union. Bill 77 will ensure that workers who are disciplined, discharged or discriminated against because they were exercising their legal rights during an organizing drive are immediately reinstated pending the outcome of a hearing on the merits of the discipline imposed on them.

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This legislation isn't breaking new ground. It isn't charting some new, radical course in labour relations; it is doing just the opposite. Bill 77 makes it possible for individual employees, particularly in sectors barely on the radar when current statutes were drafted, to realize the values that Ontario has enshrined in law but remain out of reach for thousands of men and women.

What are those values? They come from the "Purposes" of the Ontario Labour Relations Act:

"1. To facilitate collective bargaining between employers and trade unions that are the freely-designated representatives of the employees....

"3. To promote flexibility, productivity and employee involvement in the workplace.

"4. To encourage communication between employers and employees in the workplace.

"5. To recognize the importance of economic growth as the foundation for mutually beneficial relations amongst employers, employees and trade unions.

"6. To encourage co-operative participation of employers and trade unions in resolving workplace issues.

"7. To promote the expeditious resolution of workplace disputes."

Those provisions from our current labour law explicitly recognize the positive contribution of unions and collective bargaining to making workplaces in our province better for everyone.

Everything that is before you in Bill 77 is about making those values accessible to all workers in this province and giving them a real, unimpeded opportunity to make a choice about whether they should join a union—that is their choice, what they would want. It is fundamentally about making democracy work better for everyone.

On behalf of CUPE Ontario, we're asking the committee to support Bill 77, to send it back to the Legislature and to have it passed into law as soon as possible. Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hahn. Questions go to the third party. Mr. Natyshak.

Mr. Taras Natyshak: Thank you, Chair. Thank you, Fred, for attending committee this morning. I understand you were here last evening giving a deputation to the finance committee—

Mr. Fred Hahn: Indeed.

Mr. Taras Natyshak: —so you've been spending a lot of time here. I certainly appreciate your input to the Legislature.

From the outset, I'd like to just simply address some of the misnomers that the debate is currently taking on in this committee. This bill does not touch on card-based certification. It does not change the process of certification for an organization or for a group looking to organize their workplace. That should be set completely outside of the parameters of the discussion in this committee today.

What we are talking about is changing potentially the location to neutral and off-site voting and implementing some new measures, modernizing the measures, in terms of where workers can vote and cast their ballots. I think we all recognize that we're in a new era. We can do a lot of things with these phones these days. I could actually buy a car with this phone if I wanted to today, securely and safely over the Internet. I don't see why we shouldn't explore the option of allowing folks to certify their workplace or become part of a union with that type of technology.

Secondly, there is a large piece of this bill that is missing that New Democrats have fought for for quite some time, which would have been, could have been anti-replacement-worker legislation. That is not in here. That has been a contentious piece of legislation that was purposely not put into this bill. Therefore, these are modest reforms that we're looking at.

I want to expand on all five bullet points, but the successor rights in the contract sector—Fred, I'm wondering if you could tell us just how simple that would be to implement and how it could immediately infuse some fairness into our Labour Relations Act.

Mr. Fred Hahn: Well, I could tell you the story of workers that I'm sure you know from the area of the province that you represent. Ontarians in the Windsor area, workers for the Victorian Order of Nurses, who supplied home support services to aging populations and those who are sick and recovering at home, who provided those supports in that community for some 30 years, were replaced by a contract because of the competitive bidding process in the home care sector, introduced by a previous government. What that meant for those workers is, not only did they have to reapply for those same jobs, but many of them, if they were successful in that re-application after doing this work for almost a generation in their communities, had their wages cut in half, had no benefits and no pension. What that meant is that the quality of the service in that area suffered. What that meant is that families who ultimately rely on these workers for this kind of very intimate and important support had to be subject and continue to be subject to a rotating door of people who are paid lowly. Those workers, quite honestly, did not deserve to suffer the loss of their rights as a result of a decision of a policy change of government. Surely, when we talk about elemental fairness for all of us, and when we think, particularly, in public services about public service provision and the consistency of that provision for the public, it is essential that successor rights be applied equally and fairly for all workers.

Mr. Taras Natyshak: Thank you. We'll go to number two, interest arbitration for first contract: It seems to me that the language within the context of this provision is fair across the board; equal. An employee group can trigger arbitration as easily as the employer can. Do you want to maybe elaborate on what that does, what the ramifications of that are?

Mr. Fred Hahn: Absolutely. What is essential in collective bargaining is that the rights of both parties are equal, that people approach the discussions and the resolution of a collective agreement from an equal footing. What this provision of the bill allows is for either party, should there be a dispute in a first contract—which can be complicated, as I said. These are often parties that have not built up a history of labour relations; they haven't negotiated with one another; there may be incidents in the workplace that cause the organizing to happen that are challenging for both parties. For both parties to have equal access to first-contract arbitration that is fair and impartial, a third party professional who can assist them in coming to a collective agreement makes perfect sense not just for those workers but for the employer, for the services they provide and for our economy. This is already available in other jurisdictions. It works well, it is statistically proven and it just makes sense.

Mr. Taras Natyshak: Number three—

The Chair (Mr. Peter Tabuns): Mr. Natyshak, I'm sorry. Mr. Hahn, your sense of timing is excellent. Thank you very much for your presentation.

Mr. Fred Hahn: Thank you.

UNITE HERE, LOCAL 75

The Chair (Mr. Peter Tabuns): We have next Lambert Villaroel, UNITE HERE, Local 75. Lambert, please have a seat. You'll have 10 minutes to speak and up to five minutes of questions. Please give us your name for Hansard, and proceed.

Mr. Lambert Villaroel: My name is Lambert Villaroel.

Good morning, members of the Standing Committee on Regulations and Private Bills, and thank you for the opportunity to speak today. My name is Lambert Villaroel, and I am a cook at Sidney Smith Hall, University of Toronto, St. George campus. I am a proud member of UNITE HERE, Local 75. My union represents more than 8,000 hospitality workers across the GTA, including 2,000 food service workers like me.

I came to Canada eight years ago and I have worked at the university for the past three years. I came to Canada with great expectations for a better life. However, in a short time, my dreams and aspirations have been dashed. I had hoped that if I worked hard I could achieve the Canadian dream. I currently make $11.55 an hour, and I only get five to six hours of work a day. I struggle just to get by.

While I work at the University of Toronto, technically speaking my employer is a multinational food service company, as the university has contracted out most of its food service work.

I am here today to speak in favour of Bill 77. I would like to focus on a provision in the bill that is especially important to my union and to me personally. Extending successor rights to cover jobs like mine may well be one of the most effective things you can do to reduce poverty in this province.

It's not easy supporting yourself or your family when you work in the service sector. As I mentioned, the pay is low; many of us make minimum wage, or a little higher if we are lucky enough to be in a union. Our hours of work can be inconsistent from week to week, so even if we make a reasonable wage, we often struggle to get full-time hours. Also, competition among food service operators is fierce, and companies do everything they can to reduce their costs. Ask any of my co-workers: There are fewer of us doing more work.

However, through our union, my co-workers and I have managed to slowly and incrementally improve our working conditions with each round of contract bargaining. The problem is that, in our industry, the clients—meaning the universities, colleges or other institutions or companies—can change food service operators whenever their contract is up. These contracts typically last five years. The result is a feeling of permanent insecurity.

Every time a contract runs out, we have to find a way to keep our jobs and our union. Think about that. The next company that comes in has no obligation to recognize our union, to keep the same pay and benefit levels or even keep our jobs. It's no wonder that wages in this sector are not keeping up with inflation: We have to run in order to stand still.

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We spend most of our energy fighting to keep our jobs when we could be working on real contract improvement with successor rights. With successor rights, you are giving working people the tools we need to improve our lives. Without successor rights, it's going to get harder and harder to support a family on contract work, which means more and more people are going to need help just to get by.

At the University of Toronto, all we have to do is look across the street to see the difference successor rights would make in our industry. Some of my brothers and sisters in UNITE HERE, Local 75 work at the University of Toronto residence at 89 Chestnut, a university residence that includes foodservices. Unlike me, they work differently for the university. They do the exact same work for the exact same customers, but they have a higher level of job security, they have been able to focus on bargaining for fair and reasonable workplace improvements and they have secure jobs that can support a family. That's all we want—the same job stability as our brothers and sisters who work directly for the university.

For these and so many more reasons, I urge you to support Bill 77. Thank you very much for your time.

The Chair (Mr. Peter Tabuns): Thank you very much, Mr. Villaroel. Questions go to the Liberals.

Mrs. Laura Albanese: Yes. First of all, I would like to thank you for your presentation, Mr. Villaroel—I hope I'm pronouncing that right. You mentioned that you have been here in Canada for six years—

Mr. Lambert Villaroel: Eight years.

Mrs. Laura Albanese: Eight years; pardon.

Like many of us who have come from other countries, you want to fulfill your Canadian dream, and I think many of us have come here to improve our quality of life and that of our kids. That's very valuable, what you said.

It seems that the part of the bill that you are most interested in is the part about successor rights. You also made it very clear as to why you support that.

I wanted to ask you if you think that all the sectors—and I don't know if this is a question that you would be able to answer, but are all the right sectors included in the bill? There's security, cleaning, housekeeping, foodservices, homemaking. Is there any other sector that you can think of that should be included?

Mr. Lambert Villaroel: I'm here to speak about what affects me and my co-workers right now, about—

Mrs. Laura Albanese: So foodservices.

Mr. Lambert Villaroel: Yes, for the foodservices, going to negotiations. We're in negotiations. Myself and my co-workers feel very intimidated and very insecure with the transaction. I am here just to speak about the successorship. We are in fear of when the contract is changed, or if it's changed, we wouldn't have any rights, we wouldn't have a job, or anything can happen to us.

Mrs. Laura Albanese: Yes, and that gives you a lot of uncertainty. I understand that.

Are there any other underlying problems that you see with labour relations that are having a negative impact on workers in Ontario? Any others, or is this the primary one and the only specific one?

Mr. Lambert Villaroel: At present here, this is what we are interested in: successorship. This would protect us and give us job security. This is the main thing that we are concerned about: job security after working for such a long while with these companies and serving our children in the university. We are concerned about successorship, being able to stay there and keep your job.

Mrs. Laura Albanese: How long have you been working for the University of Toronto and how many times has it happened that, basically, you've been impacted by successor rights?

Mr. Lambert Villaroel: It's a matter of fear here with me right now. This can happen with us right now. It hasn't happened with me before, but I am very fearful as to my security, my children's security and my community, because if we are out of a job, things happen. You cannot maintain your children. Crimes happen. So I am here just for the successorship, to maintain my job in case it's being taken over by another company.

Mrs. Laura Albanese: Okay, I think you made that very clear. Are there any other questions from any other colleagues?

The Chair (Mr. Peter Tabuns): Mr. Coteau?

Mr. Michael Coteau: Thank you very much for your presentation. My mother was in the exact same situation, and she went through that experience with the contracts when she was employed, probably about 15 years ago, in the hospitality sector.

I have a quick question about another section of the proposed bill. It talks about voting online and other means of voting. Do you think that currently the membership at your local place would prefer voting in the workplace, or do you think that voting online or other methods using technology would benefit the organized labour group?

Mr. Lambert Villaroel: We haven't discussed that on the job. Many jobs have been to locations in the university. What I've been hearing is successorship. We are fearful of losing our jobs because of another company coming in and taking over, and displacing us. This is what my co-workers and I are concerned about right now as foodservice workers.

Mr. Michael Coteau: Thank you for coming here today. I appreciate it.

Mr. Lambert Villaroel: Thank you very much.

The Chair (Mr. Peter Tabuns): Just a second, Mr. Villaroel.

No other questions? We have about a minute and a half.

Mr. Jim McDonell: Again, thank you for coming here today. Just to touch on electronic voting, do you or

the people who work with you see any advantage to that over workplace voting? You say that you haven't talked about it, that it's not really an issue or a concern.

Mr. Lambert Villaroel: I'm not informed about that too much, so I wouldn't be able to speak on that. All our concern is on successorship, and we are hoping that the bill gets passed to give us a sense of security as workers in the food services.

Mr. Jim McDonell: I appreciate where you're coming from, but it's hard when employers don't receive contracts or go out of business. It's part of the free market. Anyway, an interesting concept.

The Chair (Mr. Peter Tabuns): We've covered our time, Mr. Villaroel. Thank you so much.

WELLESLEY INSTITUTE

The Chair (Mr. Peter Tabuns): I'll now call on Sheila Block, director of economic analysis at the Wellesley Institute. Good morning, Ms. Block. You have 10 minutes to speak and up to five minutes in questions. If you could state your name for Hansard, then we can begin.

Ms. Sheila Block: My name is Sheila Block. I'm the director of economic analysis at the Wellesley Institute. The Wellesley Institute is an independent research and policy shop. Its mandate is really to address the social determinants of health—what are sometimes called the causes of the causes of illness. We know that our health is affected by many factors outside the medical system and outside the health care system. It includes the kind of housing we live in, whether our incomes are secure, whether we face discrimination and what kind of community supports we have.

One of the most important determinants of health is both the level of income you have and the level of income inequality you're facing and that you live in. The evidence is very clear that income inequality in Canada is rising. Research that's been discussed in the media just this week from researchers at the University of British Columbia has confirmed earlier findings that tell us that we have a hollowing out of the middle of our labour force, that we have a lot of jobs and wage growth at the top of the income scale and that we have a lot of jobs and actually decreases in wages at the bottom. But what we're really losing is those jobs in the middle. That move to this kind of hourglass-shaped labour market means fewer opportunities for young people and that they'll really be denied the opportunities in the labour market that we had when we were first entering.

So we have increased income inequality and we know, and the evidence shows us, that the labour market is a major contributor to it.

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The evidence also very clearly shows us that unions increase incomes and they decrease inequality, and that that has positive health impacts. The fact that unions increase wages at the bottom and that they decrease inequality really has a positive impact on our health.

The impact of unions on health doesn't actually stop there; it doesn't stop at income inequality. Work for the World Health Organization Commission on the Social Determinants of Health showed that unionization actually has positive impacts on health through other pathways.

There are two pathways specifically. One is that by increasing income security and increasing wages, it allows workers to turn down work that is unsafe—that is, unsafe conditions—and that happens through two ways: one is improvements of working conditions, and the other way is really through the work that unions do in terms of advocating for increases in social benefits.

We know that one of the ways to both address income inequality and to increase the number of good jobs is through unionizing, and we really see that in the history of Ontario when we look at Ontario's manufacturing sector and we look at the mining sector. What happened was that through the process of unionization, jobs that were dangerous and that were poorly paid, through this process of unionizing, were transformed over time into better-paying, safer jobs.

The labour market has changed since that time of unionization in those jobs. More jobs are being created in the service sector, but the Labour Relations Act really hasn't kept up with the changes in our economy and really needs to be modernized.

To provide Ontarians of this generation with the same opportunities that we had to access the benefits of unionization, we really need to modernize the act. What this bill before you does is just take some very small, really quite modest measures towards modernization and addressing the ways that work has changed over the past 50 years.

The Labour Relations Act was written in a period of large workplaces, where you had large numbers of employees who worked full-time, who likely would work in the same workplace over their entire working life and who lived near each other, spoke the same languages and maybe went to the same bars after work, and that has really changed. Ontarians now are much more likely to be working in smaller workplaces, to be changing jobs more frequently and to be working at a number of part-time jobs.

The basic building block of a union in Ontario is the single workplace, the single physical workplace, and that's much more General Motors than it is Tim Hortons or Walmart.

Again, if we want to afford this generation the same opportunities to improve their working life, then we really need to do some modernizing of the act, and in particular, to allow employees who most need it to improve their lives, who are most marginalized and in precarious work situations and actually have the least access to that power of unionization.

I want to speak briefly to the components of the act. The first is successor rights, and the person who was here before me spoke quite eloquently to the impact of that. There is really an element of fairness in this as well, because you can see that you can have two sets of work-

ers with their employer having two different relationships to their customers. One could be in a manufacturing plant. If the manufacturing plant changed hands, the workers in that plant would continue to be represented by their union and would continue to benefit from their collective agreement that is a result of that relationship built over time. But if, in that same manufacturing plant, as the organization of work is changed, you have people who are cleaning that plant who work for a contractor, the same kinds of people working in the same kinds of plant, one would have the benefit of successor rights and one wouldn't, and really, as the economy moves and the labour market shifts so that you have more work contracted out, this is an issue of fairness in terms of two sets of workers in a very similar situation, and the only difference is the business arrangements that their employers have with their customers. It's also these sectors—in terms of cleaning, foodservice workers and security guards—in which the most marginalized of Ontarians work and in which really they need a variety of supports to raise their income, and unionization or the greater potential to unionize is one of those. This is a gap in the legislation, and to increase fairness across different sets of workers and to decrease inequality, that change should be made.

The other provisions in the act are really about modernizing the process in which employees determine whether or not they want to be represented by a union. It tends to reflect the changes in workplaces, workplaces where people are more dispersed; they're not all reporting to one place and working one or two or three standard shifts. It's really kind of taking it and acknowledging the differences in technology so that voting methods can be reformed in different ways so that people can access it in different ways, and making sure that the vote process is fair and that there's no coercion or intimidation that can happen there, and then finally, a support so that both parties in this relationship can start their relationship out in a productive manner by having that kind of support.

I think really what I want to leave with you is that income inequality that we're facing internationally, nationally and in this province is really a formidable policy challenge. It's going to require policy interventions in a number of different ways and at a number of different levels. The small changes that this bill proposes to increase access to unionization is one way that has been shown actually to be effective at reducing inequality, has no direct cost to the public purse and actually can and will enhance the health of Ontarians.

Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Block. Questions go first to the official opposition. Mr. Walker.

Mr. Bill Walker: Thank you for your presentation. I apologize for coming in late. I had another commitment, so my colleague covered me.

One of the things, I guess, certainly from my perspective, in all of these types of things, that we have to do is look at it from a balanced equation and both sides. I don't see that you—in your presentation, I didn't hear much reference to the employer side of the equation. One of the things I think we're grappling with—and we've seen incidents of it relatively recently with companies moving out of Ontario to either other jurisdictions in Canada or to the States—is the ability to pay, the ability of the employer. The balance I didn't see in your presentation is, what about the impact to the employer?

Ms. Sheila Block: The impact to the employer of these changes to the act?

Mr. Bill Walker: Well, you're suggesting higher rates, and to unionize you're going to get better rates and better working conditions. I don't think anyone in the House is going to argue with better working conditions; everybody should have the right to a safe work employment. But the rising rates from unionization may drive a company to choose that I'm going to either the States or to another jurisdiction. I didn't hear anything to kind of balance that off, the ability for the employer to absorb those increased costs.

In a hospital setting recently, I was told that one of the areas of the hospital was unionizing only for the simple fact that they had been impacted by the legislation to freeze their wages. They were going to unionize just to get the added wage. There is a cost to the public purse, and there is a cost if you're a private company to increase those wages.

If we drive businesses out of Ontario because of that, then we certainly are not necessarily moving us in the right direction.

Ms. Sheila Block: I think I can address that in a couple of ways. The first is that in any bargaining process, two parties come to an agreement. I think that unionized workers are very acutely aware that their shared interest in a company is maintaining profitability of that company. If the profitability of the company isn't maintained, the workers are out of the job, and the company can either relocate or go somewhere else.

I think it's really a kind of misunderstanding of the bargaining process if you don't assume that this is a process where there are really a great deal of mutual interests, and the mutual interests are the continued health and operation of the company. That's sort of one aspect of it.

This absolutely would have an impact on both public sector and private sector workers, but really from a public policy perspective, if you are actually transferring incomes to lower-wage workers, it has a big impact because they're more likely to spend their money in their local communities than higher-wage workers are. You're going to decrease other costs, such as the costs of increased health care and also the costs associated if somebody actually doesn't have a living wage and has to rely on social assistance.

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I think the relationships are really complex, and I also think the relationships between unions and employers are very complex and mutually supportive.

Mr. Bill Walker: The other piece that I don't see in this document, but I certainly have in some of our other

learnings to date, is that some of the unionized dues are being used for things other than collective bargaining. Where's your stance on that?

Ms. Sheila Block: I take a public health perspective of it. What I can talk to you about is the World Health Organization perspective on that, which is that the impact of unions working towards social issues, towards increasing social security and towards increasing other benefits actually has positive health impacts, and those positive health impacts result from the use of dues for those kinds of activities.

Mr. Jim McDonell: You talked about union members having, of course, a stake in the success of a company, but that doesn't happen when you're working and the contractor gets changed and the employees are staying but the contractor's gone. We talked about successor rights. Really, they have no interest, or they can have no interest, in the success of the contractor because the employer's the only person that loses out there. I just wonder about the balance in that case. Generally, if you're not successful, or your company's not successful, everybody loses. That wouldn't be the case. It would shift the rules.

Ms. Sheila Block: I think in terms of the successor rights and how that would shift, what that really would do is kind of put a floor under the competition. We know that the contractor sector is a sector where we have a lot of basic rights being violated, employment standards rights being violated, and misclassification of workers.

Making it a little bit easier to maintain your union through successor rights, I think, would address some of those violations. But clearly, if a union managed to somehow bargain an uneconomic agreement, then every successive contractor would not be successful there. Therefore, there could be a number of scenarios that would result. The person who's buying those contract services could wind up bringing it in-house. There's a whole range of things that I think would actually happen that would prevent that from happening, through the kind of market forces.

The Chair (Mr. Peter Tabuns): Mr. Walker?

Mr. Bill Walker: Again, a local firm in my riding would refute that significantly. They are a small contracting firm. They've been in business for about 38 years, I believe. The father started the business and the son has now taken it over. They are telling me that if the unionized-portion movement comes through, they'll shut down, because they cannot afford the rate.

So I would refute some of your thought processes. There may be cases where that will not be the case, as you're suggesting, but there are other cases that it definitely will have a detrimental impact. He's saying, "I'll shut the doors, because I'm not profitable."

The Chair (Mr. Peter Tabuns): And—

Ms. Sheila Block: Sorry. Is he currently unionized?

Mr. Bill Walker: No.

Ms. Sheila Block: So he's saying if—

The Chair (Mr. Peter Tabuns): Sorry, Ms. Block, we've come to the end of the 15 minutes.

Ms. Sheila Block: Okay. Thanks very much.

The Chair (Mr. Peter Tabuns): Thank you very much.

UNITED STEELWORKERS, DISTRICT 6

The Chair (Mr. Peter Tabuns): We now have United Steelworkers, District 6. I was going to say "Wayne Fraser," but I don't think you're Wayne Fraser, Brad—and Phyllis Reid. As you know by now, you have 10 minutes to speak and up to five minutes of questions. If you would introduce yourselves for Hansard and please proceed.

Mr. Brad James: I'll do so. Thanks very much, Mr. Chair. I'm Brad James. I'm replacing our director of District 6, Wayne Fraser. I'm the union's director of organizing. I'm representing the Steelworkers here and happy to be here.

I'm going to split my presentation today with my friend Phyllis Reid, who is a member of our union at Queen's University, a recently joined and new member.

Let me say that Bill 77 takes some small but very important steps toward ensuring that employees can better access and then better exercise their democratic rights, with less fear of employer reprisal. These legislative changes are modest, they're modern and they're moderate—all good Ontarian virtues—but they'll deliver real benefits to employees across Ontario without impinging in any way on the activities of responsible employers.

Before getting into the substance of Bill 77, let me turn to something that was addressed by one of the members from the Conservative Party that Bill 77 does not address, and that is the right of Ontario workers to join unions via card-based certification. Requiring representation votes as the only means of winning bargaining rights does place an undue burden on employees and does not square with the unique power relations that exist in the employer-employee relationship. Our union does advocate an eventual return to card-based certification. It's a time-tested means for employees to achieve bargaining rights, a means that existed for decades under successive Conservative governments, a model that existed here in Ontario for years, a model that exists elsewhere; and it's a model that the previous Liberal government extended to only one section of the economy, the construction sector.

But having said that, that's not what Bill 77 is about. Bill 77 focuses on key aspects of the current Labour Relations Act that would make the act more reflective of the reality of work in Ontario today and would make the rights and responsibilities in the act more tangible, more meaningful and more accessible to more Ontarians.

The bill focuses on the rights of Ontarians to make decisions about union membership and on their subsequent ability to maintain that union membership once they've chosen it. First, let me turn to the first category, which is the right of employees to make decisions about union membership. The bill's change to provide better reinstatement rights during organizing campaigns, essen-

tially extending the principle of innocence until proven guilty into the workplace during an organizing campaign, is an important change. The rational disclosure—not the early disclosure, but the rational disclosure—of employee lists and the option in certain cases, where the union asks for it, to propose neutral or off-site voting or some secure electronic voting means: These three changes are about moving toward a more democratic model, given that we currently have a vote-based representation system.

None of these changes is controversial. All of these changes mirror other key democratic aspects in our society, and none of them should be of any concern. Taken together, these changes will help to reduce some of the very rational fears that employees have about employer opposition and will repair some poor elements of the current vote system. I'm happy to get into those when we have time for questions.

Next, on the ability of employees to maintain union membership once they've chosen it, the two key aspects of the bill here are the extension of successor rights to the thousands of employees that are currently denied those rights in the contracts services sector, and secondly, providing easier access to arbitration in a first-contract situation. Taken together, those two changes will allow employees who've chosen union membership to keep it, so that it is their decision as to whether they maintain their union or not, and it is not taken from them by an employer bent on frustrating first-contract bargaining or by changes in workplace control that happen with regularity for thousands of employees in the contract services sector.

Specifically, workers in that sector are vulnerable and precarious workers working at the low end of the wage scale, and they deserve the same rights that are held by other workers in Ontario. These changes will work to increase opportunity for Ontarians to participate meaningfully in our economy. They will erode the gnawing problem of inequality in our economy. There is a minimum cost—a nominal cost—to public finance. All in all, these changes are non-controversial and positive.

My friend Phyllis Reid will speak about her experience at Queen's University in a moment, but I'll say that we are gratified, the Steelworkers are gratified, that the Legislature is turning its mind to these vital issues. We commend the committee for what we know will be thoughtful and hard work, and we look for further discussion from you on ways to pass this bill into legislation as soon as possible and make it better.

I introduce my friend Phyllis Reid from Queen's University, a new member of our union.

Ms. Phyllis Reid: Good morning. I have worked at Queen's University for 33 years. I'm a graduate studies assistant. I work with master of laws and doctor of philosophy and law students from their initial inquiry for information to their degree completion.

Over my years of service, I noticed a distinct change in the way Queen's conducted business. It became clear to me and to other loyal employees that for Queen's to remain a good employer we needed to address problems in our workplace. In 2008, we established a steering committee and commenced the lengthy campaign to unionize. Our goal was to educate our colleagues so they could make informed decisions on unionizing.

Determining our bargaining unit was a gigantic task. Queen's is a complex workplace. It is widely dispersed among dozens of different buildings across two geographically separate campuses. It is comprised of literally hundreds of offices, labs and workspaces. Some of my colleagues work in isolated labs and behind locked doors. Queen's has dozens of job titles, grade levels and work arrangements. Our campaign was long, due, in good measure, to the barriers that are present in the current version of the Ontario Labour Relations Act.

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As a newcomer to a union organizing, I was stunned to learn that the democratic right I have as an employee in the province of Ontario to engage in communication around union issues was not supported by access to a list of eligible co-workers in bargaining units. If I can run for Kingston city council and obtain a voters list so I can communicate with voters, why is it that employees who choose to unionize are prevented from gaining a list of their colleagues? The lack of such a right defies both logic and fairness.

When discussions on unionizing began, we were told by senior university management that we were not allowed to meet on campus, even on our own time. We had meeting access in one building because it operated under a different governance structure that encouraged open discussion.

On March 31, 2010, administrative and technical staff held our vote. Voter turnout was overwhelming. For a great portion of the day, lines of employees filled hallways and spilled out on sidewalks waiting to vote. They stood in line for hours. We were successful. USW Local 2010 was formed in December 2010. We have close to 1,200 members and represent the majority of non-faculty administrative and technical staff. Most of our members are women. We are close to concluding our first collective agreement. Yay! I am a proud member of United Steelworkers and we are making a difference at Queen's.

My experience taught me many things and raised many concerns. Employees deserve the opportunity to consider issues and ask questions so they can make an informed decision on unionizing. In our campaign, we were limited in our efforts to reach our colleagues because we did not know who was in the bargaining unit and where they worked. As a result, many employees may have been denied the opportunity to engage because either we or they did not know they were part of the bargaining unit. If a list of employees had been provided to us earlier in the campaign, it would have allowed a much more rational process to unfold, one in which employees would have had better access to communication with colleagues about the issues around our decision to form a union.

If Queen's had been required to provide a list of employees earlier in the campaign, that might have

bridged the gap of fear that existed during our campaign. Many of my colleagues who are highly skilled women and men—

The Chair (Mr. Peter Tabuns): You have a minute left.

Ms. Phyllis Reid: —who have given decades of service to Queen's were afraid to talk with us about unionizing. They feared retaliation from supervisory levels at the university. Based on my experience with our campaign, I can only imagine what it must be like in the private sector with employers who are less scrupulous and less fair-minded than Queen's and where employees fear even more acutely for their job security.

I believe it is time to change the fundamental imbalance that exists in the Labour Relations Act. As legislators, you have the power to make positive change. I sincerely hope that you do so.

Thank you for an opportunity to address this important issue.

The Chair (Mr. Peter Tabuns): Thank you very much. Questions go to the third party. Mr. Natyshak.

Mr. Taras Natyshak: Thank you, Chair. Thank you, Brad and Phyllis, for appearing before us today. Brad, during the context of your presentation, you mentioned that you wanted to elaborate on a remedy—on potential remedies—for the overall voting process that currently exists. I want to give you the opportunity to do that.

Mr. Brad James: Certainly. Currently, the voting process that exists, while people from a less-than-fully-informed point of view might think that a vote in the workplace accords with the basic traditions that take place when we vote for our federal or municipal or provincial representatives, it's really nothing of the sort. I think an earlier deputant or perhaps one of the committee members referred to the location of the vote, so let's talk about that for a second.

The location of the vote is most often in the workplace. Very few workplaces have a space that is both suitable and proper for the taking of a proper secret ballot and, once again, it is not on neutral territory. The proposal in Bill 77 would be that, at the union's option and if it is available, voting be considered at a neutral or off-site location, again to make the voting process more akin to the democratic process that placed all of you on this committee and in this House.

Let me talk a little bit about access and communication in the workplace. Even in a workplace like Queen's University, which is a place of free inquiry, openness, transparency and so on—or so one would think—employees found it extremely difficult to engage in effective communication about unionizing. They were prevented from meeting anywhere on campus, even on their own time. They could not book rooms to do so; they could not meet on campus. We eventually found a place on campus where we were allowed one small corner of the campus to engage in that communication.

Queen's, though, is a fair-minded and scrupulous employer and observed the law. As Phyllis said, you can only imagine what it's like for employees in workplaces where the employer firmly, aggressively and strongly opposes the union and may, as the member here said, make indications that if their employees join the union, they will close. Mr. Walker, I believe you referred to an employer that took that position.

The ability of workers to engage in discussion and make decisions about whether to join or not join the union is severely constricted in the workplace. Unions do not have any access to the workplace. People who choose to lead the campaign and engage in a democratic discussion about unionization such as Phyllis did are in a fundamental position of imbalance when compared to the capacity of the employer to communicate and conduct its campaign against unionization.

We do think that the vote process currently can't really be compared to the vote process under which you folks were elected. These three changes—the provision of a voters list so that employees can understand with whom they should communicate is absolutely vital to taking some of the undemocratic edges off of this process; again, the protection of workers who engage in union organizing, to be able to do so without fear or reprisal, without fear of being fired, and if they are fired, they have a chance to have their day in court and be returned to the workplace under an innocent-until-proven-guilty status is absolutely vital; and the option, again, to make the vote more akin to the process that placed you in the positions you're in, to have the vote off-site—all three of these changes will take some of the undemocratic nature out of the current union representation process.

Again, we still think there are many challenges, other things that, in terms of equity of information, need to be fixed, but we think these changes will make the vote slightly more democratic.

The Chair (Mr. Peter Tabuns): Mr. Natyshak.

Mr. Taras Natyshak: I've got a little bit more time, Chair? Thanks.

I'll go to the third provision within the proposed bill: the small changes to reinstatement during an organizing campaign. I think we should all be working under the premise that the ability to organize your workplace is here. It's a fundamental aspect of our society, it's enshrined, we have it, it is a right, and as long as there are businesses that operate and corporations that operate in Canada or in the province, there will be unions to represent the groups of workers. Any other debate is philosophical and really doesn't add to the constructive nature that should be of this committee.

I just want to talk about the basic, fundamental aspect of not having the fear of reprisal during an organizing drive. How important is that to the future of the progressive nature of organized workplaces?

Mr. Brad James: We take the position that union organizing should be out in the open, that employees should be able to discuss it on their own work time and not take time away from their work. They're there to do a job—but on their own time to be able to discuss it. It's a fundamental right; it's guaranteed in the act.

The fear of reprisal is strong. Polls in Ontario and across Canada consistently show that, when non-union workers are asked if they want to join a union and then they are asked if they want to join a union if they could be guaranteed that there would be no reprisal from their employer if they did so, support for joining a union goes up on average between 10 and 12 percentage points. Workers have a well-founded, healthy and well-understood fear that some employers—not all—will discriminate against them if they engage in their democratic choice. Everyone knows someone who knows someone whom this has happened to.

The Chair (Mr. Peter Tabuns): Mr. James, I'm afraid we've come to the end of the 15 minutes.

Mr. Brad James: Thanks very much.

The Chair (Mr. Peter Tabuns): We have completed our business for the morning. We stand recessed until 2 p.m.

The committee recessed from 1010 to 1400.

ONTARIO FEDERATION OF LABOUR

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order. We are here for public hearings—a continuation from this morning—on Bill 77, An Act to amend the Labour Relations Act, 1995, with respect to enhancing fairness for employees.

Our first speaker this afternoon is Nancy Hutchison, secretary-treasurer, Ontario Federation of Labour. Ms. Hutchison, if you could have a seat here.

Ms. Nancy Hutchison: Thank you.

The Chair (Mr. Peter Tabuns): You'll have 10 minutes to speak, and then we'll have five minutes for questions. State your name and please proceed.

Ms. Nancy Hutchison: My name is Nancy Hutchison. I am the secretary-treasurer of the Ontario Federation of Labour, which unites about one million working people in the province of Ontario. I have with me my colleague Pam Frache from our Ontario Federation of Labour as well.

Many employment standards and labour laws exist today because working men and women joined forces to effect positive change. Historically, for literally hundreds of thousands of workers in Ontario, formalizing this co-operative action through membership in a union has been a necessary precondition for effecting the statutory change that made life better, not only for employees in the workplace but for communities and the economy as a whole. This is why the freedom of association and the right to join unions are the cornerstone to any modern democratic society.

Evidence shows that the labour market has changed over the past 20 years, and the proportion of workers who do not work in large, single-site workplaces any longer is growing. Less than two thirds of today's workers are employed in standard work. Unfortunately, newcomers, workers of colour and women are overrepresented in precarious, temporary or low-wage work. Bill 77, the Fairness for Employees Act, proposes five key measures to facilitate workers' ability to exercise their rights under the law in today's changed workplace situations.

(1) Early disclosure of employee lists: As the Labour Relations Act currently stands, when workers want to bargain collectively, they must work hard to determine who else in their workplaces should be involved in these discussions. Under existing legislation, such lists are provided only two days before the vote. Bill 77 proposes earlier disclosure, with enough time to allow employees to communicate with each other to better determine the outcome.

As it stands, studies show that employers who learn their employees are considering unionizing intervene actively to dissuade them. Workers can be targeted merely for discussing issues with their co-workers. This concern is real. According to Osgoode Hall Law School professor Sara Slinn, a survey of managers at Canadian workplaces where union organizing had recently occurred found that 94% used anti-union tactics, with 12% admitting to using what they believed to be illegal, unfair labour practices to discourage their employees from unionizing.

We believe that communication should be facilitated. For instance, in municipal elections, voter lists, including names, addresses and the school board they support, are published in advance. Any legitimate candidate may request the relevant voters' lists so that she has ample time to engage voters in a meaningful dialogue during the provincial election. The candidate, having filed and received official acceptance of the appropriate nomination papers and fees, may request and receive access to the voters' list without a list of nominators. Of course, candidates are bound by all the relevant legislation, including the Municipal Elections Act and the Freedom of Information and Protection of Privacy Act.

Provincially, if a candidate is running in a registered political party, then a mere 25 signatures of the many thousands who live in that electoral district is a sufficient threshold for the release of an appropriate voters' list for that riding. Federally, a candidate must be nominated by between 50 and 100 eligible voters, with the lower threshold applying to larger or rural geographical areas as recognition of the challenges associated with meeting and communicating with electors over a large, geographically spread-out area.

By contrast, Bill 77 offers much more of a modest proposal, establishing a very high threshold of 20% of employees who have expressed a desire to organize, and ensuring that any employee list would be disclosed to the union only via the Ontario Labour Relations Board. Of course, all such disclosure would be in keeping with existing legislation regarding freedom of information and protection of privacy.

(2) Reinstatement pending the outcome of a hearing: When a person who was known to support collective bargaining disappears from a workplace, there is a chill that is very obvious on the other workers inside and outside the workplace. Protection under the law cannot

be delayed in these circumstances. For many workers, merely the suggestion of reprisals such as reduced hours or termination is enough to undermine their confidence in taking action. Few people today, in whatever occupation they hold, can afford to lose even one paycheque or engage in costly and time-consuming legal disputes.

Bill 77 makes a modest proposal that workers who are disciplined, discharged or discriminated against because they were exercising their rights under the Labour Relations Act during an organizing drive be immediately reinstated to their original terms and conditions pending the outcome of a hearing on the merits of the discipline imposed on such workers, in keeping with the basic principles of law that presume innocence. This measure is particularly important for the growing number of part-time workers who may not be terminated but who may also have their hours reduced and other reprisals threatened.

(3) Neutral and off-site voting, including telephone and electronic voting: Under existing legislation, a representation vote is required of workers before becoming a formally certified bargaining unit. Proponents of union certification via representation votes place significant emphasis on the notion of a secret ballot as imagined in the liberal democratic election process. However, in municipal, provincial or federal elections, voting booths are situated in convenient sites in neutral locations and are not controlled by one particular candidate.

By contrast, the majority of votes on union representation take place in the workplace that is, by definition, controlled solely by the employer. In smaller workplaces, it is quite possible for employers to deduce, or believe themselves to have deduced, who is sympathetic to collective bargaining and who is not, and treat such employees accordingly. This leads to perceived exposure and increased vulnerability to the workers. Bill 77 seeks to mitigate these inherent biases in the voting procedures.

(4) Interest arbitration for a first contract: Although existing legislation provides for the settlement of a first contract through a process of arbitration, the threshold for accessing this route is still too high, and workers can find themselves locked out or on strike because the employer has fulfilled only the most minimal technical requirements of the law and not complied with the spirit of it, which is to bargain fairly and in good faith.

Bill 77 proposes a measure that exists in other jurisdictions where either party may apply for arbitration if, after a set period of time, a collective agreement has not been settled.

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Nancy Hutchison: This is a measure that equally protects employers and employees from bargaining tactics that do not comply with the spirit of good-faith bargaining.

(5) Successor rights for the contract services sector: Currently, legislation provides successor rights when a business is sold or transferred. Since the 1950s, Ontario legislation has recognized that employees who have democratically decided to form a union should not lose their collective bargaining rights, and employers should not be able to circumvent their obligations.

I'm going right to the last page, Mr. Chairman, just to make sure I get in the most important points.

The loophole that allows contract service workers to lose their modest improvements in wages and working conditions to a non-union competitor that underpays its employees is a legislative gap that must be corrected. Simply put, the Labour Relations Act must be modernized to extend fairness to the growing number of workers employed in the contract services sector. In 2003, Premier Dalton McGuinty made an important promise to public sector employees, stating that "public employees should have the same rights as employees in the private sector, and, as Premier, I will restore successor rights for Ontario government employees."

In 2007—

The Chair (Mr. Peter Tabuns): Thank you.

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Ms. Nancy Hutchison: In conclusion, Bill 77, the Fairness for Employees Act, offers modest but necessary steps to modernize the Labour Relations Act—

The Chair (Mr. Peter Tabuns): Thank you, Ms. Hutchison. I'm afraid your time is up.

Ms. Nancy Hutchison: —and we urge all to support the bill. Thank you.

The Chair (Mr. Peter Tabuns): Questions go to the Liberals.

Ms. Tracy MacCharles: I believe Mr. Coteau has a question for the government.

Mr. Michael Coteau: I have a couple of quick questions. Thank you very much for a great presentation, and thank you for the hard copy. It's good information.

Can you explain—and I know you briefly talked about it. What is the current process for an organized labour group to go in and actually connect with the employee prior to a vote to see if they would take on a union or not? What is the current practice now?

Ms. Nancy Hutchison: I could just start it and then I'll refer it to my colleague Pam. What happens now is that there would be what we would hope would be an inside committee. Of course, the bigger unions—if it was the Steelworkers, for example, or the United Food and Commercial Workers, they do not have access to the property as national or district representatives, so we solely depend on the workers on the inside, which we would call an inside committee. Those are the very brave non-union workers who are the ones who have stepped up, so to speak, to be able to communicate and send our message as unionized workers to the non-union workers in that workplace.

We don't have access to the workplace—

Mr. Michael Coteau: Or to the list, right?

Ms. Nancy Hutchison: —or to the list.

Mr. Michael Coteau: So by not having access to the current list, would you say that there are 10%, 20% that you probably don't get to? Has there been any study on having a list versus not having a list when it comes to connecting and the outreach prior to a vote?

Ms. Nancy Hutchison: Well, because we have never had access to the list—we would be happy to do a study after we get the lists through this bill, hopefully, Mr. Chairman, but I don't think there have been any studies. Maybe Pam knows of some.

Ms. Pam Frache: I'm not aware of any particular studies. The biggest issue, I think, really is facilitating communication, because lots of times, especially in workplaces where shifts are irregular, co-workers don't know each other. It's hard to imagine for people who work in standard jobs, where you work beside the same person day in and day out, but in many workplaces, you simply don't, and the employees there don't necessarily even know.

Getting the list earlier is really about facilitating communication between the employees so that they actually can discuss workplace issues.

Ms. Nancy Hutchison: If I could just add one more point, in today's world and working world, there are a lot more fly-in situations. There are a lot more remote working places. I'm from the mining sector, and today's mining world is all fly-in camps. You have one entire shift coming off after three weeks of work. If we're lucky, they may see each other in an airport somewhere, but predominantly not. They're at home, a shift is coming in and the bed is still warm; the next shift is using the same bed, and the shift is coming in. So they don't even see each other.

Mr. Michael Coteau: Do you have any questions?

Ms. Tracy MacCharles: Go ahead.

Mr. Michael Coteau: We've heard some comments around moving forward and embracing technology for voting. One could argue that digital voting systems—telephone, computers, even by text or email, phone—would open up access and be more equitable. But one could also argue that some people would prefer the typical or the current way of voting, just because some people may not be digitally savvy. Would it be a hybrid type of model of both different approaches in order to—is that the type of approach your group would support?

Ms. Nancy Hutchison: Okay, well, Pam, if you'd like to—

Ms. Pam Frache: Sure.

Ms. Nancy Hutchison: Then I will make a couple of comments.

Ms. Pam Frache: I think the spirit of the proposed bill is to allow the employees themselves to determine what mechanism of voting is best and that there should be a wide range of options. For lots of people, access to computers and so forth is not actually particularly viable. We know that lots of people don't have computers at home and so forth, so that may not be appropriate in those cases.

But I think the purpose of the legislation is to make sure that people have broad legal access to a range of voting mechanisms that will actually facilitate participation, preserve neutrality and actually provide better outcomes in terms of the will of the employees.

Ms. Nancy Hutchison: Just to further comment on that, maybe in cases where English is the second language—as Pam pointed out, I know my parents, for example, aren't online, don't have computers. With the working age now extending past 65, we're dealing in many cases with vulnerable workers who are seniors today. So the choice really should be there.

The Chair (Mr. Peter Tabuns): Ms. Hutchison, thank you very much for your presentation.

Mr. Michael Coteau: Thank you so much. I appreciate it.

TORONTO AND YORK REGION LABOUR COUNCIL

The Chair (Mr. Peter Tabuns): I now call on John Cartwright, president of the Toronto and York Region Labour Council. Mr. Cartwright, you have 10 minutes for your presentation, and up to five minutes have been allotted for questions from committee members. If you could state your name and please begin.

Mr. John Cartwright: John Cartwright, president of the Toronto and York Region Labour Council.

I want to start my presentation by drawing the attention of the committee to the map on the back of the document. This was produced by Professor David Hulchanski for the Cities Centre at the University of Toronto about three years ago, and it shows the change of real income of families in Toronto over the course of 25 years. The red is neighbourhoods where real incomes of families have dropped more than 20%, the blue is where they've increased, and the white is where they've stayed the same. If that map was done today, you'd see much more of the dark red colouring in those neighbourhoods.

The reason I'm drawing your attention to that is because fundamentally what we're talking about today is income inequality and poverty and whether or not this government plans to do something about it for real, because we've seen tremendous growth of income inequality in the last number of years, particularly since the financial meltdown, but also before then as manufacturing jobs were outsourced, as service sector jobs became more and more the reality for new Canadians and as employers have taken a much tougher stand against people trying to have their rights at work. So our council says that Bill 77 is an important but small piece of tackling the issues. Really, governments need to recognize that, in this day's economy, people need governments on their side to balance the incredible power of multinational corporations and employers growing in concentration of wealth and power.

Back in 2004, I appeared before a similar committee at this House to talk about what was going on in the workplace. We did a series of community forums and created this book of shame, which you should also have with you. It takes stories of treatment of non-union workers in their workplaces, around health and safety, around unfair treatment, around being cheated for wages, around when they try and organize a union. It tells some horror stories that we certainly think that no sitting politician, no matter what your political stripe, should feel is appropriate for our province.

I've got to tell you that as we are going to start doing a series of town hall forums this summer, we know that these stories are all continuing in our neighbourhoods. In fact, the most recent study by the Metcalf Foundation talking about the spread of poverty wages looked not just at the city of Toronto but the GTA and shows that in Mississauga, Brampton, Durham and York region, the increase in poverty wage is much higher, in fact, than in the city of Toronto. We've got to do something about it.

We know that unions are an essential solution, that industrial jobs were poverty jobs back in the 1930s. It doesn't matter if it was steel or auto or rubber or paper; those were poverty jobs until unions came. We know that in the residential industry of construction, those were poverty jobs in the 1950s when immigrant Italians were exploited, and it wasn't until they got unions that they got out of that. We know that front-line workers in health care and social services—those were poverty jobs until they were able to get a collective voice at work, so that's crucial.

A number of people that have been here before and will come after talk about the fear that embraces the workplace when somebody wants to say, "Yeah, let's exercise our rights and join a union." I've been through that as a non-union woodworker trying to organize a union in a workplace and watched grown men literally trembling with fear at the idea that the boss might discover that they've signed that union card—trembling with fear. I've heard time and time and time again about people being fired and reprised, and more and more now, part-time workers having their hours changed so that it's clear that they've created a career-destroying move by being a voice saying, "I want my democratic rights at work." That is part of what Bill 77 gets at.

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The workplace is never neutral. We actually give up almost all of our civil rights when we walk through that door. We give up our right to free expression; we give up our right to freedom of assembly; we give up our right to write freely about what we want. If somebody was to say, "Well, a vote is a democratic thing"—it's like having a vote in some of those tinpot dictatorships where the governing party controls everything, including the lists, including the location, including whether or not workers for the opposing party are removed from the campaign arbitrarily. That's why things have to get fixed.

You heard earlier today about successor rights from a young man who works in the foodservice sector. Let me tell you about our experience in cleaning. You also heard from CUPE 79. We've been involved in the Justice and Dignity for Cleaners campaign, and we know what it means when somebody says, "Let's outsource jobs and take them from a living wage to poverty wages," because we also deal with contract cleaners and we see what happens when people are earning $10.25. We see what happens when people like Impact Cleaning violate the law by misclassifying workers and abusing undocumented workers, who are paid less than the minimum wage—no WSIB, no employer health tax, no taxes deducted at source. Something has to be done to make sure that people who break the laws don't undermine fair employers who are trying to pay an honest day's wage for an honest day's work. That's why successor rights are so crucial in the contract sector.

In the 1990s, there was a brief period of time when that was in place. It wasn't there for home care workers, but we didn't have the vicious home-care tendering system in place in the 1990s that we do today. You heard about Victorian Order of Nurses, Red Cross and other long-standing community groups that provide home care, that have lost those contracts to for-profit companies paying substandard wages, many of them from the States. That has got to be dealt with by this government.

The right to a first contract: Of course, if you get a union and then the employer, frustrated at the process, effectively says, "I refuse to bargain in good faith," then it's impossible to create a long-term relationship.

I come out of the construction industry. We have employers large and small. We have the most productive construction workforce in North America because we've built a partnership between labour and management around training, around apprenticeship, around upgrading and, most of all, around respect. You can't have a healthy collective bargaining relationship in place if employers say, "I'm going to frustrate the interest of my employees to at least have a first contract to set the new stage." We've got to have a balance in our economy.

I'm going to leave you with this thought: There are people today in greater Toronto, in the industrial heartland of Canada, working in the automotive industry, that used to be the standard for the middle income that everybody aspired to. The average industrial wage was set as what all of our statisticians said is how we should compare ourselves. There are people working today in the automotive industry—for multi-billion-dollar companies—for $11 an hour. You think you can raise a family on $11 an hour? Of course you can't, not with the cost of living here in greater Toronto. I'll tell you, most of those people are new Canadians—not all, but most.

When my parents were lucky enough to come to this country in the 1950s, you could move into a decent job and know that you would be part of the so-called middle class—industrial, manufacturing, construction. Unionization was part and parcel of that deal. One of the reasons why they're seeing such an increase in the racialization of poverty is because newcomers today don't have access to decent jobs with decent wages and benefits. More and more of the jobs that are available are in the service sector, and more and more of them are in contract, short-term, temp agency jobs. That's the reality.

If this government wants to do something about that, they are going to have to change the law, not just on Bill 77 but affecting things like temp agencies and contract work and their right to organize in unions, that even go further than this. Otherwise, you are saying that the next generations of Ontarians will have far less than those of us in this room who are my age, and that particularly newcomers and their kids will be consigned to more and

more poverty-wage jobs. That's not the kind of Ontario that I think anybody in this room says they believe in, but you've got to walk the walk if you're going to make that true for the future. Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Cartwright. Questions to the official opposition: Mr. McDonell.

Mr. Jim McDonell: Thank you for coming today. I'm just not understanding the resistance to going to the secret ballot when our whole democratic country is based on that. There's no question, at least in my mind. I've seen electronic balloting. It's open to abuse; it's open to coercion. I'm just wondering where is the take on it that that is not considered, really, in allowing employees to express their will through secret ballot,.

Mr. John Cartwright: First of all, the issue of voting or not voting is not in this bill, as you very well know, but you've got other things you're doing here.

Mr. Jim McDonell: Well, you are talking about going to electronic voting.

Mr. John Cartwright: Oh, electronic voting, sorry. People pay their bank bills electronically. They do all kinds of things electronically. Medical information is moved back and forth electronically. Our society has come to a point where people are secure that incredibly important information can be transmitted electronically, and more and more systems are agreeing to various forms of voting.

Mr. Jim McDonell: That's not the question. My question, really, is how you guarantee that it's any more—

Mr. John Cartwright: Well, in the same way the bank guarantees that if you go on electronically and take money out of your account, it's not somebody else doing it; the same way that—

Mr. Jim McDonell: That's not the question. The question is, how does that guarantee anybody's rights to be more than a secret ballot, where you're actually able to stand behind a barrier, put your X down and file it? I mean, there's no question. Where I'm on my PC, I don't know who's around me. The employer could say, "Look, I want you to take this ballot and I want you to vote right now, and I'm going to watch." Those are things we don't know.

When it comes to a supervised vote where you're guaranteed that you're out of sight and you're allowed to exercise your vote—I just don't see it. We've had electronic balloting on the municipal side for some time, and I've heard of numerous cases where people have complained that it's open to abuse, and this is a very secure system, over your computer, over your telephone, cards are mailed out—

Mr. John Cartwright: I think the reason is because, as you've heard before, people are more and more working on shifts and in multiple locations, and it's harder and harder for people, especially with parental responsibilities and often working two and three jobs, to say, "Yes, I'm going to be able to get to some location at one particular time." Providing ease of people to vote, particularly in a more and more electronically savvy generation, is important.

But I think the more important principle we're talking about here is that people have to be able to have access to gain a collective voice at work. They have to be able to more freely join a union without fear, without intimidation, and that's not the reality in today's society. And as we're seeing the immense use of employer power, like Walmart, "You join a union, and we're going to shut your store down," or companies like Caterpillar, "You take a 50% cut, or we're going to move out of this place," that sends chills through everybody who is even imagining that they should have a right.

So the question is, how do we start to deal with inequality? You can only do that if you tackle the huge changes in our economy and the terrible things that have happened to working people, and you say that new Canadians are going to have the right to have a collective voice, that you recognize what all economists say, that unions are really the main way that people move out of poverty jobs, as a broad classification. In fact, one of the old expressions was, "Unions are the best anti-poverty program for working families." That's what we've got to say. How do we ensure that people have more of those rights, no matter where they come from?

When we look at this next generation, CEOs in this country have said to the next generation, "You're worth less. You have less value than people of my generation." We've got to turn that around, or we'll have growing extremes of poverty in this country.

The Chair (Mr. Peter Tabuns): Mr. Walker, you have a brief moment, about a minute.

Mr. Bill Walker: Well, that certainly limits me. We're both—I'm new and Taras is new, and a lot of this is just learning on the fly here, so most of my questions are points of clarification.

One of the things I found interesting with your math, and it is a point of clarification, is it shows the declining wages.

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Mr. John Cartwright: Yes.

Mr. Bill Walker: One of the concerns—and I'm trying to figure it out—is things like the variables that have also changed over that period of time, such as increasing taxes, such as increasing costs for things like energy. We're going up 46% in our energy. A company, at the end of the day, has to make money, or they're not going to be here, and there won't be any employees. Are those factored in when you use that type of a data point to show us?

Mr. John Cartwright: This, of course, is an income map, and what we do know is that in the last number of years, particularly since 1995, taxes have been shifted off of corporations and put onto the backs of homeowners and low-income earners. There have been numerous studies done to show how that has happened. In fact, even in the last few years in this jurisdiction, $2 billion of corporate tax cuts every year were taken out of the public purse, and that means older people are now being asked

to pay higher user fees, and there is downloading to municipalities and to school boards. So they're getting less services as businesses get away with paying less taxes.

The Chair (Mr. Peter Tabuns): Mr. Cartwright, thank you for your presentation.

WORKERS' ACTION CENTRE

The Chair (Mr. Peter Tabuns): I will now call on Sonia Singh from the Workers' Action Centre. Sonia, you have up to 10 minutes and—as you know the routine—after that, five minutes of questions. If you'd give us your name for Hansard and please begin.

Ms. Sonia Singh: Thank you.

Interjection.

The Chair (Mr. Peter Tabuns): No material.

Mr. Bill Walker: No? Thank you.

Ms. Sonia Singh: My name is Sonia Singh, and I'm an organizer with the Workers' Action Centre. I want to thank the members of the standing committee for hearing our deputation today and just acknowledge my colleague Marcia Gillespie, who's joining me.

The Workers' Action Centre is a worker-based centre that is located in Toronto. We run phone lines, and we work on the front lines supporting workers who have faced workers' rights violations who do not have union protection. Every day, we're hearing the kinds of issues and concerns that you've heard from many of the other deputants today from across the GTA.

The people who we get calls from, our membership, are working in precarious jobs. As you've heard from many others, these kinds of precarious jobs—part-time, temporary, low-wage work—which have been increasing gradually over the last year, are now becoming the standard, with more than one third of jobs in Ontario falling into this definition of precarious or non-standard work. We're here today to speak in support of Bill 77 because we feel that this bill is a step in the right direction to building a voice at work and to expanding protection for workers who fall in this category of precarious jobs.

I want to tell you about the people who we work with at the Workers' Action Centre, people who are working hard to support themselves and their families, the majority of whom are women in precarious jobs. More than half of the people in precarious work are people of colour, and a disproportionate number are newcomers to Canada.

These are not people who are working part-time jobs by choice. The trend has been for more work and more and more jobs that have been created to be part-time jobs that pay less and that essentially offer no job security. Under our current minimum wage, even when people are working full-time hours, they're still earning an income that puts them below the poverty line.

These people, our members of the Workers' Action Centre and others across Ontario, are doing the hardest and most necessary jobs in our society. They are keeping office towers clean, they're preparing and serving food, they're providing security, they're looking after families, and they're manufacturing goods. They are doing critical jobs that we need in our economy.

As you might be able to imagine, our members, many of the people that we work with, are very stressed out. They, and also the one third or more of Ontarians working in these jobs, are working harder and harder and earning less and less—often in unsafe conditions and often not knowing if they are even going to get paid, never mind whether they're going to have a job next month or even next week. Despite this growth in precarious work, our labour laws have not caught up and are still based on an outdated model of a standard employment relationship developed over 50 years ago. We're seeing companies take advantage of these gaps in the law and use new strategies to move work outside of protection—whether that's contracting out, using temporary agencies, misclassifying people as self-employed—so that we're seeing conditions deteriorate across entire industries.

I want to tell you about one of our members, Lilia, who contacted the Workers' Action Centre after she was paid less than minimum wage for over six months, working for a cleaning company. She was paid less than minimum wage because she was classified as self-employed, even though she went to a job every day, followed the instructions of a boss, followed the hours she was given and used the tools of that employer, she was called self-employed, that she had her own company.

She took on this company. She went to the Ministry of Labour. She fought back and she won her wages. But what about the other cleaners in that company, in other companies around the city, who may not have that opportunity to speak out?

We know that people, by working together, are able to improve working conditions, whether it's on an individual basis to make a complaint, with support from an organization, or by coming together. That's why we have a minimum wage. That's why we have basic labour standards. Our members join organizations like ours and do their best to meet with other workers to discuss their working conditions, to seek improvements and ways to make change. We've seen successes; we've seen changes as a result of this organizing.

One of the examples is changes that were made to provide more protection for temp agency workers. This is an example of why workers need to be able to get together to talk about the conditions they face, without fear of reprisal, and to be able to organize for change, and that's why we're supporting Bill 77.

This bill would modernize the Labour Relations Act, which was written in a time of large workplaces, one work location, direct employment relationships and long-term employment. By contrast, today's service sector—Lilia's boss making up one of the critical parts of that, which makes up some 53% of the labour market—is characterized by low wages, low rates of unionization, job instability, multi-location work and locations where people are separated from each other, smaller workplaces and more contracting-out. In this new labour market,

workers are more likely to experience violations of their legal rights to health and safety and to minimum employment standards compared to unionized workers.

Bill 77 provides some necessary, if modest, adjustments to reflect this disturbing trend towards low-paid, part-time temporary work by making it safer for workers to organize and unionize.

I know we've been hearing about the different amendments. I'll just review them very quickly and then speak more specifically about the provisions around successor rights.

Bill 77 amendments include making sure that representation votes, once a union applies for certification as a bargaining unit, be held at a neutral site, which could be in or near a workplace or could involve representation votes conducted electronically or by phone, as we've been discussing.

To ensure access, the voting location should be convenient, even among a workforce that may be geographically dispersed—and that ballots are cast in as neutral a way as possible, to ensure maximum participation, to truly reflect workers well.

Bill 77 ensures that workers whose jobs are terminated or whose work hours are changed during an organizing campaign are reinstated to their jobs and previous terms of work pending a hearing, ensuring that they are considered innocent until proven guilty and that employers cannot just fire a worker for exercising his or her democratic right to organize or to support a union or union drive.

Just to make sure I can speak about successor rights, I won't speak about some of the other changes, as my colleagues at Parkdale Community Legal Services will address that shortly. I want to talk about the successor rights provisions. These provisions would ensure that successor rights for the contract service sector means that those employees—security guards, foodservice workers and cleaners—could have the same successor rights as other workers in Ontario. This provision would make a huge difference to the lives of many workers that we work with.

I want to share another example of a group of workers who contacted us at the Workers' Action Centre. They were working for a private security company at a public institution. They had worked in these jobs for over 20 years, but every few years, that company would switch and the contract would go to a new company. So where they started in a unionized job initially, that job soon became a non-unionized job as the contract switched every few years. Not only that, not only losing the protection of a union, but also, every time the company switched, small changes in their wages and working conditions would occur, to the degree that after 20 years, this group of workers was fired. Despite the fact that they had been there for so long, working in one location, working in a public institution and not choosing to change employers, they had lost their jobs. They had no job security and no guarantee that the conditions that they had signed up for at the beginning of their employment would continue.

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We support Bill 77 because we believe that this would bring in a small but very necessary change to better protect Ontario workers. We recommend, however, that the bill be amended to include all contract services provided directly or indirectly by or to a building owner, management or occupant. This would ensure that other types of building contract services, such as, for example, parking lot services or other services that don't currently fall under this neglected category but yet, at some time in the future—

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Sonia Singh: —could be part of a building service as employers look for new ways to reorganize work to bypass regulatory protections—essentially, we believe that this protection should be expansive in scope rather than limited. Adding on that, we feel that these kinds of amendments and extensions of successor rights should also be included and extended to the Employment Standards Act in this sector, as was initially proposed under Bill 40.

Just to close, we are facing a crisis in Ontario. We are facing restructuring of our economy that is pushing more and more workers into low-wage, precarious jobs. The proposals that are before you today, the amendments to the Ontario Labour Relations Act, are very modest but they will have a significant impact for workers in low-wage and precarious work. We're here today to ask you to stand with workers in Ontario and to support this bill. Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Singh. Questions are to the third party. Mr. Natyshak?

Mr. Taras Natyshak: Thank you, Chair. Thank you, Sonia and Marcia, for your deputation today. I am a member and actually a board director of our local chapter of the Windsor Workers' Action Centre, so I'm very familiar with the work that you do. What's interesting about our centre—Windsor being, you know, a labour type of town—is that we don't typically get any calls from unionized workers at the Workers' Action Centre. That's because their unions are capable of dealing with any workplace issues and, typically, those are ironed out through collective agreements. What we do find is a massive amount of calls coming in from workers who are in temporary working conditions, precarious work. There is a crisis in companies in our area that use the 89-day rotation as a revolving door, where they will take in temporary workers and lay them off at the 89-day mark. It has obviously created a crisis in our area, where we have massive unemployment—the highest in the region.

Also, over the years—I would say, over the last 15 years at least—we've seen declining rates of unionization in Ontario and Canada. I'm wondering if you would relate those declining rates in organized workplaces to increasing rates of income inequality. Your thoughts on that?

Ms. Sonia Singh: I think there's no question that there's a direct link. We know that one of the best ways to increase workers' wages is to organize a union. Study

after study or stat after stat will show what the benefit of being in an organized workplace with a union is, not only around income but also around having job security and a way to file a grievance.

Those security guards, who I described in that example, had they still been in an unionized workplace, would have been able to file a grievance and would have had some kind of protection against those kinds of changes in their working conditions and, ultimately, the fact that they were fired without any reason or cause. Certainly, in that specific example, their wages—they had no increases year after year. I think that's something that we know at the Workers' Action Centre: The majority of people who contact our centre are working at the minimum wage. Their wage only goes up when there is an increase in the minimum wage. The minimum wage has been frozen for two years. It brings people at least 10% below the poverty line, so I think having access into the ability to organize a union, having doors open, getting rid of some of those barriers and providing ways for people to have ways to come together and organize when there is that majority support is critical in terms of bringing workers out of poverty and raising standards for the entire workforce in Ontario.

Mr. Taras Natyshak: Thank you. One of the aspects of Bill 77 involves increasing accessibility to the voting process in terms of organizing a workplace. I come from the construction sector, which has had card-based certification exclusively since, I believe, 2004. Prior to that, in the mid-1990s, we had card cert in Ontario. It was one of the mechanisms for me, as a 20-year-old, to quickly go from my first working job in the construction industry to being able to pay for university, albeit going to university part-time, because I was making a decent wage. I'm wondering if the changes to the ability to vote in a different way, and also the ability to sort of sequester yourself in a neutral setting, might increase the participation rates in organizing.

Ms. Sonia Singh: I think, especially in the kinds of sectors we are working in—people working in cleaning and painting, and even to some extent in construction—that the degree of intimidation people face is staggering, and that is often the biggest barrier in even signing a card in the first place. So definitely, when it comes time to a vote, having the option or having the possibility to have voting happen at a neutral site where that potential for employer intimidation—even if an employer is not actively doing something, but just the fact that the box is outside the manager's office—is a factor that is going to make a lot of people think twice about what action they take.

Mr. Taras Natyshak: Unfortunately—

The Chair (Mr. Peter Tabuns): I'm afraid, Mr. Natyshak, we've come to the end of the time. Thank you for your presentation.

SOCIAL PLANNING TORONTO

The Chair (Mr. Peter Tabuns): Next we have Navjeet Sidhu from Social Planning Toronto. Mr. Sidhu, as I'm sure you know by now, you have 10 minutes, and five minutes for questions. If you could give us your name, please start.

Mr. Navjeet Sidhu: Navjeet Sidhu. I'm a researcher with Social Planning Toronto. Social Planning Toronto is a non-profit community organization engaged in research, policy analysis, community development and civic engagement aimed at improving the quality of life of Toronto residents. SPT's work focuses on poverty reduction, with an emphasis on income security, good jobs, affordable housing and strong public education.

SPT would like to commend the government on its intent to amend the Labour Relations Act in order to increase fairness for Ontario workers and provide better protection from employers who seek to make it difficult for workers to collectively organize in the workplace and/or usurp these rights once a union has been formed. We believe that workers should not have to fear for their jobs and livelihoods simply for exercising their democratic right to unionize. While denying certain groups of workers their right to organize is prohibited, employers have nonetheless exploited gaps in the Labour Relations Act to intimidate workers and both influence and undermine the unionization process. This bill seeks to address some of the key issues that workers who wish to organize are facing in the workplace.

SPT therefore fully supports the amendments contained in this bill: early disclosure of employee lists, reinstatement of workers during an organizing campaign, interest arbitration for a first contract, neutral and off-site voting and telephone/electronic voting, and successor rights for contract services, each of which will work toward reducing the barriers for workers to organize and benefit from the collective bargaining process.

The importance of this bill cannot be understated, not only in terms of improving wages and working conditions for Ontarians, but as a means of reducing poverty in the province and our communities as a whole. As you are no doubt aware, the figures detailing Ontario's growing income inequality are troubling. In Toronto alone, nearly one in four residents is living in poverty. Between 2000 and 2005, the working poor population of the city increased by nearly 39%. In Ontario, the number of working poor increased by 24% between the same years. As well, in Ontario, the richest 10% of families earned almost 75 times more than the poorest 10%.

As Iglika Ivanova, an economist with the Canadian Centre for Policy Alternatives, recently noted, "The research evidence is clear: the labour market is at the root of Canada's growing income inequality. The earnings of Canadians have become increasingly polarized, with mind-boggling CEO compensation packages at the top, stagnating wages in the middle and persistently low wages combined with increasingly precarious work arrangements at the bottom. If we are serious about reducing inequality, we must take the bull by the horns and directly intervene in the labour market to ensure that it produces a more equal distribution of earnings. This means improving the earnings and working conditions of low-wage workers."

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The workers who will benefit most from this bill are those who have been pushed further down the economic ladder by employers who continue to demand greater flexibility from the workforce in order to increase competitiveness on the global market. Unfortunately, terms such as "competitiveness" and "flexibility" have become synonymous with blatant disregard for employment standards, increased insecure and unsafe work, poverty-level wages and theft of workers' wages.

The amendments also make initial steps in acknowledging the changing nature of work in the province. Full-time permanent jobs are being eroded in favour of more part-time, temporary, precarious work, as we continue towards a path away from a manufacturing-based economy towards a service-based economy. Between 1991 and 2006, for example, the rate of entry-level jobs in Ontario—those requiring lower levels of education—increased by approximately 27%.

With women, people of colour and newcomers being disproportionately represented in precarious forms of work, they are often the ones who are paid the lowest, receive little to no benefits and are often at the mercy of unscrupulous and abusive employers who get away with forcing people to work long hours in unsafe working conditions while oftentimes not paying them their full wages. Protecting vulnerable workers requires updating and modernizing labour laws, extending employment rights to those groups of workers who have been excluded from legislation, greater enforcement of employment standards and protecting the right of collective organizing for all workers.

We believe these amendments proposed in Bill 77 are a crucial first step towards not only bringing about greater fairness for Ontario workers, but also towards reducing economic inequality in the province—objectives directly in line with Ontario's 2008 poverty reduction strategy. Additionally, these amendments make economic sense. These changes will not result in additional costs being borne by the province, and an increase in wages and job security can only result in a better quality of life for workers and their families and increased spending by workers in their local communities.

Social Planning Toronto fully supports these changes and trusts that this government will continue to work towards restoring respect and dignity in the workplace and help make an insecure economy and labour market more secure. Thank you.

The Chair (Mr. Peter Tabuns): Questions go to the government. Tracy MacCharles.

Ms. Tracy MacCharles: Thank you, Chair, and thank you for your presentation today.

When we look at Bill 77, I'm interested in hearing a bit more about which elements of the bill you feel most strongly about. Which of the elements in the bill do you feel would address the issues you've outlined for us here today?

Mr. Navjeet Sidhu: Well, I wouldn't specifically pick out one as being better than the other. I think people who are working on the ground would have a better idea of which of those elements might deserve more attention. I can speak more generally, as a whole: If you put all those pieces together, I think they really work to benefit those workers who are still struggling to organize in their workplaces.

Ms. Tracy MacCharles: Okay. You've identified a number of important issues that I don't think are included in the bill, but perhaps what you're suggesting is that they relate to the bill?

Mr. Navjeet Sidhu: Yes.

Ms. Tracy MacCharles: Perhaps some other things around the Employment Standards Act and poverty, for example.

You may be aware that our government is very focused on investing in supporting children in poverty and lifting children out of poverty, because they are future employees and future taxpayers and so on. I'm just wondering if you have any comments on that focus in the poverty reduction strategy.

Mr. Navjeet Sidhu: Children are still products of their parents, their parents who are working, so obviously you need to strengthen the working conditions of parents so that they will be able to better support their children as they grow into future workers. You can't speak about child poverty without talking about workers as well.

Ms. Tracy MacCharles: So are you supportive of the increases that have been in Ontario to the minimum wage, to the Ontario child benefit, things like that?

Mr. Navjeet Sidhu: Very much. I think they're important first steps, and we need to keep moving in that direction.

Ms. Tracy MacCharles: Thank you very much for coming in today.

Mr. Navjeet Sidhu: You're welcome.

The Chair (Mr. Peter Tabuns): Mr. Coteau.

Mr. Michael Coteau: I would like to thank you for your presentation. I know that Social Planning Toronto does a lot of work. We have John Campey's work around education, around school funding and community space.

Mr. Navjeet Sidhu: He sends his love.

Mr. Michael Coteau: Successor rights for the contract service sector is a big item in this bill. Do you have any comments on that?

Mr. Navjeet Sidhu: Only from what I've heard from fellow advocates who are working in this area. I'll admit I'm not too familiar with the ins and outs of these legislations, but I fully support many of the community organizations and labour unions that we work closely with. They know what they're talking about, so we fully stand behind them.

Mr. Michael Coteau: Last question: The economist you made reference to says that the "labour market is at the root of Canada's growing income...."—how would you compare that statement in comparison to education being one of the root causes? I know there are a lot of groups out there that would say that actually education levels are a root cause, even more so than the labour market. Do you have any comment on the at?

Mr. Navjeet Sidhu: Again, I believe all of these are intertwined. Education costs here are exorbitantly high, and parents of children who want to go into post-secondary education need to work longer hours in order to get their kids into education. Again, I don't believe in silo-ing labour market, education—those are all intertwined, and I think we need to acknowledge that.

Mr. Michael Coteau: Thank you very much.

Mr. Navjeet Sidhu: You're welcome.

The Chair (Mr. Peter Tabuns): Thank you for your presentation.

PARKDALE COMMUNITY LEGAL SERVICES

The Chair (Mr. Peter Tabuns): I will now call on Parkdale Community Legal Services: Roberto Henriquez, James Roundell. Gentlemen, you'll have 10 minutes to speak and five minutes for questions, as I'm sure you've heard. If you'd just give your names for Hansard and please commence.

Mr. Roberto Henriquez: Roberto Henriquez.

Mr. James Roundell: James Roundell.

Mr. Henriquez and I work at Parkdale Community Legal Services on workers' rights. We provide assistance and legal representation concerning employment standards, employment insurance, human rights and occupational health and safety.

The clinic and our work provide us with a unique knowledge of how the effects of low-wage and precarious work extend beyond the worker to her family and community. A community working in low-wage and precarious work has increased rates of immigration, refugees, social assistance and tenant legal issues, to name a few—all areas of legal work at Parkdale Community Legal Services. In addition, we work with communities in low-wage and precarious work to improve labour standards through education and law reform.

Mr. Henriquez and I also work at Workers' Action Centre and participate in joint campaigns coordinated by the two organizations. Our work at Workers' Action Centre exposes us to the despair that causes workers to accept low-wage and precarious work and reinforces our understanding that they need our protection.

Mr. Roberto Henriquez: Now, as my colleague James has said, our day-to-day experience with people in low-wage work has allowed us to see how our labour market is leaving workers and their families struggling in poverty and facing economic insecurity. More people are finding themselves in part-time, contract type of work, often juggling two or three jobs. Workers are facing greater difficulty planning their daily lives and supporting their families. Many jobs today fail to provide adequate incomes, supplemental health benefits, sick pay or pensions. Work is not a pathway out of poverty for many of these workers.

Precarious work has become a persistent feature of our economy. Such precarious work is characterized as non-standard work that is temporary rather than permanent. It is work marked by job and income insecurity, low wages and limited employment benefits. It may also be work shaped by particular immigration rules and by instability.

Precarious work includes work that lacks meaningful access to employment rights. As precarious work has developed over recent decades, it has become marked by processes of racialization and gendering. By that, we mean the ways in which women, immigrant, migrant and racialized worker groups are incorporated into the labour market, yet our labour laws and employment benefits are still based on a standard employment relationship developed after World War II.

Increasingly, gaps in our labour laws and practices have created incentives for employers to move work beyond the protection of employment standards and labour law. Work that used to be done in-house is now outsourced by companies. Employers seek to hire people indirectly through intermediaries. Temporary help agencies, for instance, are examples of this.

Employment is also being disguised as independent contracting or franchising as employers seek to bypass our labour laws. Many of these practices seek to shift the costs and liabilities of the employment relationship onto the intermediaries and onto the workers who can least afford it.

Employers rationalize these practices as necessities to improve flexibility in an increasingly globalized world, but workers' experiences show that outsourcing, indirect hiring and misclassifying workers takes place in sectors with distinctly local markets: business services, construction, retail, warehousing, transportation, health care and manufacturing of goods that are consumed locally. The recent recessionary cycles have brought declines in manufacturing jobs and a growth in service jobs.

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The Employment Standards Act, which is the protection for many of the employees, has become increasingly unable to address substandard conditions in today's economy. The failure of governments over the past 30 years to adequately fund and staff employment standards regulation, and the shift from enforcement in workplaces to enforcement through individual claims by former employees, has essentially shifted the onus for enforcement onto the workers—those workers, again, who have the least amount of power in these relationships.

History demonstrates that employers create new, unforeseen and unprotected work arrangements. That is why an essential first step must be to expand the scope of our labour laws to include all those who work in all forms of work arrangements. In this way, we can remove the incentives and statutory mechanisms allowing employers to move some forms of work beyond the reach of current labour law protection. By requiring all work to meet basic minimum labour standards, we can finally establish a level playing field for employers and a minimum floor of rights and standards for the workers in our society.

Until 1995, Ontario extended successor rights to businesses or companies that used contractors for services,

such as security, cleaning and food services. After these protections for these businesses' service workers were removed, we have witnessed a variety of practices which function effectively to lower wages, working conditions and the employees' voice and protection.

In 2007, we represented cleaners at Countrywide Maintenance. This cleaning company operated as a pyramid, whereby supervisors had to create their own franchises and hire subcontractor cleaners. With business costs shifted to supervisors and the cleaners themselves, Countrywide underbid many cleaning companies in buildings that had unions or better wages and working conditions. Cleaners ended up paying fees for work, paying for their own cleaning materials, and earned less than minimum wage. Without successor rights protection, we have seen a growth in fly-by-night operators that bid for contracts, that cannot meet minimum labour standards, thus pushing out better-paid and more stable cleaners.

With unequal power between workers and employers and no real protections against reprisals, workers can do little to enforce their rights while they are on the job. Experience demonstrates that the most effective enforcement of employment standards legislation occurs through grievance and arbitration when workers are covered by a collective agreement. However, people in precarious forms of work face substantial barriers in exercising their right to unionize. The Labour Relations Act does not address the challenges of many of the new features of the labour market. So in addition to more effective enforcement of employment standards, we must also address the statutory and practical barriers, people in precarious work face when they are trying to exercise their collective rights.

With respect to modernizing the Labour Relations Act, which is what we are discussing today, the service sector makes up 53% of the labour market and is marked by low wages, low unionization rates and job instability. Work in the service sector can be spread out in different locations, with workers often separated from each other. Work is often in smaller workplaces and may be done through direct and indirect contracting. Yet the Labour Relations Act was itself built with the standard employment relationship in mind. It was written during a time when there was one single workplace with direct employment relationships and long-term employment. Workers in low-wage and precarious work are more likely to have their legal rights to health and safety and minimum employment standards violated than are unionized workers.

Bill 77, the Fairness for Employees Act, provides some modest steps to improve workers' access to unionization. It would reduce barriers workers face in communicating with each other in forming a union, providing some protections against employer reprisals and expanding the scope of successor rights to vulnerable workers in business services.

Mr. James Roundell: We support the following five changes:

(1) Early disclosure of employee lists: We support this change.

(2) Reinstatement pending the outcome of a hearing: We support this change.

(3) Neutral and off-site voting, including telephone and electronic voting: We support this change, noting this change is required because a vote to form a union requires 50% plus one of the employees. Since a non-vote is the equivalent of a vote against, workers in support of the union have a much greater incentive to vote.

(4) Interest arbitration for a first contract: We support this change.

(5) Successor rights for the contract services sector: We support this change, and we recommend an amendment to include all contract services provided directly or indirectly to a building owner, manager or occupant.

In conclusion, the proposed amendments to the OLRA are very modest. However, they will positively benefit workers in low-wage and precarious work. Thank you.

The Chair (Mr. Peter Tabuns): Questions to the official opposition. Mr. McDonell.

Mr. Jim McDonell: You seem to talk about how this law will bring things as a matter of legalities, on a legal base. If the employment standards are there and they're law, why is a unionized employee—it applies to both sides. I just wonder if you could explain what you mean by that.

Mr. James Roundell: With the protection of collective bargaining and support among workers in a union setting, it enables them to be able to communicate through the information channels that are opened up via a union, whereas workers who are not in a unionized workplace often are unable to communicate with each other because they may not work at the same location or they may not be doing the exact same types of work. They may be working from home, for example.

Mr. Jim McDonell: It's not the same situation. I mean, if you're working by yourself, you're working by yourself. Whether you're part of a union or not doesn't change that. There are minimum standards, and I guess our job is to make sure they're followed.

Mr. Roberto Henriquez: Yes, that's part of the difficulty we face with some clients. Generally, employers will tend to say that the individual is working by themselves—"Joe is actually on his own; he doesn't work as part of a larger labour force that we have"—when in reality, despite what a contract may say, that the individual is an independent contractor and is not actually working as an employee, some of the realities of what exists within the relationship tend to indicate that the person may actually be an employee. So a lot of times, employers may try to evade some of the Employment Standards Act regulations by mislabelling them as independent contractors. If you can allow these groups to work as a collective here and form a union, it automatically pushes them beyond the restrictions that are in the Employment Standards Act to protect them, and now

you would allow them to effectively attain the protection offered under the Ontario Labour Relations Act.

Mr. Bill Walker: May I?

The Chair (Mr. Peter Tabuns): Yes, Mr. Walker.

Mr. Bill Walker: Mine is kind of related. I believe it was Ms. Singh who said there was a contract worker, or one labelled as a contract worker, who did fight and won her case. I'm kind of getting confused, because if there are labour standards and employment standards in place, and there was a prime example she utilized that the law is in place, and we regained that, I'm still just trying to get more clarity on what's the real difference then.

I'm not thinking of the big, large corporation, which seems to be in most of the documentation you're speaking to. I'm talking to the little plumber who has two people hired. They're saying to me, "This will kill me. It is going to put me out of business if we allow this to go forward." So I need to understand because, kind of like Jim, I'm making the assumption that there are laws and standards in place that individuals such as I—I've worked in a unionized environment, I've worked in management and now, obviously, I'm working here, a little bit of a hybrid of both, perhaps.

I'm really sincere in trying to figure out—I get the big corporation in this case, but there are also the Hondas of the world that are not unionized, and from all accounts when I'm speaking to a lot of people, they quite enjoy that. I'm trying to figure out if there's really a benefit—and has to be—and what the difference is.

Mr. James Roundell: I guess right away, especially for the plumber who has just a few employees, that's a great part of our economy and we totally want to respect it. The problem that plumber who is employing just a few employees has to compete with is other plumbers who are not respecting the Employment Standards Act. Those other employers are using divide and conquer and splitting their employees so that they can't collectively act out. They need the job, and they're in a precarious position. They need to work, and so they can't stand up to their employer. I think this would support the plumber who has just a few employees.

1510

Mr. Bill Walker: A point of clarification, if I could, though: My understanding would be, there still are laws. My concern with government is, we try to whitewash everything. We've wiped out a whole industry of abattoirs in rural Ontario because of something that happened at a big-corporation level. We then said, "Here's the standard." The little guy in rural Ontario can't afford to do that. My concern is very similar here.

If that small plumber who's not abiding by the laws and the standards—I'm not certain that unionization is the only answer here. That person should be pushed to adhere to the laws. People can stand up no differently as an individual or with a union, as the person who was alluded to did. The law did, probably, in the estimation of myself, the right thing. They looked at the law and said, "Yes, you're contravening it. Here's the judgment."

I'm not certain in those cases that, again, just going always to a union is the basis, and that's what I'm hearing from my constituents.

Mr. Roberto Henriquez: Well, perhaps my colleague James can add to this, but generally what we see with the individuals who we work with, who are those individuals who are in precarious types of employment, is they are a very vulnerable group of people. Oftentimes just the process of even coming into the clinic and trying to raise some of these claims is a very difficult prospect for them. The process itself is very drawn out. It's incredibly difficult, despite what you might think is a fairly evident case. In that particular situation, it may be that it took much longer—the progression to get to that point was incredibly long and laboured. This is the experience that both James and I have felt.

If you allow them to unionize—and I should also add, with respect to what we are referring to, a lot of the times it isn't the big, bad corporation. It is the smaller corporate mom-and-pop shop, or the plumber who forces his employee to purchase his tools, purchase his uniform, doesn't perhaps pay him at the minimum wage. That's the difficulty they face. But to allow these groups of people to unionize—

The Chair (Mr. Peter Tabuns): Thank you for your presentation. I'm sorry; I have to wind you up.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair (Mr. Peter Tabuns): We're going now to the Ontario Public Service Employees Union. Gentlemen, thank you so much.

We've got Mike Grimaldi and Doug Evetts. Gentlemen, you've been around long enough that I know that you know the routine. You get 10 minutes to speak; five minutes of questions. If you'd start by giving your names for Hansard.

Mr. Mike Grimaldi: Mike Grimaldi. Thank you, Chair. Good afternoon. I'm Mike Grimaldi, and I'm the vice-president of the Ontario Public Service Employees Union for the west-central region of Ontario. My region takes in areas like Niagara, the Hamilton area, Grey-Bruce, Owen Sound, Kitchener–Waterloo and the surrounding areas, including parts of Mississauga.

I'm extremely proud to be here to represent all of the 130,000 members of OPSEU in more than 500 bargaining units serving literally every community in this province. I want to thank the committee for the opportunity to discuss Bill 77, the Fairness for Employees Act.

The issue of unionization, and how government uses the law to either encourage it or discourage it, is of great importance to working people.

As a general rule, unionized workers have better pay than their non-union counterparts. Union members are more likely to be in an employer pension plan and more likely to have supplementary health benefits. Unionization gives working people a democratic voice in their workplaces and in the life of their community. Given these facts, it's obvious enough why workers want to be

union members. Unfortunately, non-union workers face many obstacles to unionization.

Workers who want a union face intimidation and the threat of job loss. They face a law that is tilted in favour of employers, who not only have the power to hire, fire and discipline, but also control the organization of the workplace and the dissemination of information.

Our current laws are out of date. While ostensibly designed to facilitate collective bargaining, the law today too often has the effect of preventing it. In many ways, we have not come very far from the days of Adam Smith, who wrote in 1776, "We have no acts of Parliament against combining to lower the price of work; but many against combining to raise it."

Before I get into the details of what we could do to make unionization easier, I'd like to touch on a more fundamental point: It should be easier for employees to unionize than it is. That is their legal right. They have a great deal of difficulty exercising it.

As you know, we're living in a time with increasing economic inequality, which pollster Frank Graves recently identified as the most important issue in the minds of Canadian voters. Why? Because for working people, the last three decades have been a time of stagnant real wages, or, for many, falling real wages. For business, particularly large corporations, this has been a time of rising profits and skyrocketing incomes for CEOs and top managers. In 2010, the average income of the top 100 CEOs in Canada was 189 times that of the average full-time worker. This was a huge jump even from 1998, when the ratio was 105 to one.

The trends of the last 30 years represent a sharp shift in the labour markets compared to the three decades after World War II. In those days, productivity was rising, and wages rose in tandem with productivity growth. Unionization, while it has never been encouraged in this country by employers, was at least tolerated, and industrial workplaces were large and relatively easy to organize. While rising productivity made higher wages more affordable for employers in the post-war era, there is no automatic link between productivity and wages. It took the hard work of organizing and bargaining by unions to ensure that productivity gains led to wage gains. But since the late 1970s, that has become much harder to do. According to a study by the Centre for the Study of Living Standards, Canadian labour productivity grew by 37% from 1980 to 2005 and real median wages over that period did not increase at all.

The current era really began in 1979 when US Federal Reserve Chair Paul Volcker declared, "The American standard of living must decline," and hiked interest rates to record levels, choking the economy and stripping workers of their bargaining power. Then in 1981, US President Ronald Reagan—notice it's spelled right—fired the country's air traffic controllers, sending every American worker a clear message that their government was not on their side.

Policy changes in the US quickly spread around the world. In Canada, the policies of the neo-liberal era, from free trade to corporate tax cuts to privatization of public services, have all had the same effect of driving down wages while boosting profits. Repression of unions has been part of this toolbox. This must end if we truly want to reduce inequality in Ontario and get our economy back on its feet.

It is now well known that working people have made up for stagnant wages by taking on more debt. Obviously, this cannot go on forever, but consumer spending is the rock on which our economy is built. When workers can't spend, everybody pays. Right now, consumers are in debt and governments are in debt, but employers—who have benefited from the policy changes of the neo-liberal era—are flush with cash. Canadian non-financial corporations are now sitting on $527 billion in cash—not investments, but cash—and can't seem to find a place to put it. They are not investing because they have little confidence that they will be able to sell what new investments might produce. The problem here and globally is a lack of consumer demand. As corporations in this country look forward to their annual profit growth in the 7% to 8% range—and everybody has heard about record profits being made, year after year—Ontario workers have seen real wages fall by 2% in the last year. That must change.

The best way to restore aggregate demand is to remember that profit comes from labour and to reverse the downward trends in wages.

Bill 77 proposes some modest first steps to start to make that happen. I'd like to comment briefly on the main points of the bill.

Successor rights: The purpose of successor rights is to protect workers when employers change. Under the current law, this does not happen in cases of contract re-tendering. We believe it should. In OPSEU, we have seen the effects of re-tendering, particularly in home care, where competitive bidding has driven down wages for staff in order to fund the profits of private home care companies and has severed relationships between patients and front-line care providers. We support amending the OLRA to guarantee successor rights in the contract services sector.

I want to tell the standing committee that in my home area of Niagara, for over 75 years, the Victorian Order of Nurses had had the home care contract. They went into the bidding process that was enacted by a former government and amended but continued under the new government. They allowed that to happen. It not only changed the providers, but it meant that many seniors, many vulnerable medical patients at home, had to suddenly change their nursing care. I don't think that there's anybody on this standing committee who believes that that's what should happen. People who had had long-term relationships with their nurses and health care providers were suddenly left without health care providers or provided with new health care providers, people who didn't know—who had to do the most intricate and intimate of medical procedures.

1520

First-contract arbitration: The rationale for allowing arbitration of first contract was eloquently expressed in

1985 by Bill Wrye, the then Ontario Liberal Minister of Labour, who said:

"Where ... the momentum of an organizing campaign and the desired expression of the majority for a collective agreement are frustrated at the bargaining table, there is a natural tendency for the employer to regard the union's defeat as vindication of its own position, and there is a risk that legitimate concerns of the workforce may be ignored ... the government believes that first-contract arbitration is essential."

There was a government member with a social conscience. It would be nice to see that happen again.

The problem with the current law is simply that the bar is set too high for first-contract arbitration to be set in motion. We support the simple mechanism proposed in Bill 77 to ensure that new bargaining units can be set on a stable foundation without unnecessary delays, but in addition to that, without violence and people getting injured on picket lines.

Leadership—

The Chair (Mr. Peter Tabuns): You have one minute left.

Mr. Mike Grimaldi: Leadership: What is most important about Bill Wrye's comments is that they show leadership in support of a fair deal for working people. That type of leadership is critical when it comes to labour relations. What we need in Ontario is leadership from government—by which I mean every MPP in this room and in the Legislature—that says to working people, "We understand what you're going through. We want you to get ahead in life. We're willing to take real action to help you do it."

Intimidation and certification: We support Bill 77's move to improve protections for workers who are fired during an organizing drive. But again, what is just as important is to reduce employer bullying. You just passed a bill in the Legislature which I thought was a wonderful bill to prevent bullying in schools. You know what? We need the same kind of legislation in the employer's premises as well.

The real significance of Bill 77 is not only the changes proposed, but rather the opportunity it presents to send a message—

The Chair (Mr. Peter Tabuns): Thank you, Mr. Grimaldi. I'm sorry—

Mr. Mike Grimaldi: That's it?

The Chair (Mr. Peter Tabuns): That's it.

Mr. Mike Grimaldi: Okay. You've got the rest. Go ahead.

The Chair (Mr. Peter Tabuns): I have a feeling that you'll get some sympathetic questions. Third party: Mr. Natyshak.

Mr. Taras Natyshak: Never. Thank you, Chair.

Thank you, Mr. Grimaldi; thank you, Mr. Evetts, for appearing before committee. From your position, given the context of Bill 55, the budget bill, can you give me a general feeling of the sentiment of labour in this province, given what's built into Bill 55?

Mr. Mike Grimaldi: Well, certainly from the perspective of our union, it appears that working people are under attack across this province. Bill 55 has a number of provisions that quite frankly scare me to death. The attack on pensions, which I can speak to: We had a meeting with the government side with regard to pensions, and I can tell you that to destroy public sector pensions is the absolute wrong way to go. What we need to do is one of the things that—we were told in meetings with the government: "What about the $14,000-a-year single mother? Doesn't she deserve a pension when you've got public sector pensions?"

The fact of the matter is, the $14,000-a-year public sector mothers, in many cases, are public sector workers. If you look into the broader public sector—if you look into the liquor board, it was making billions of dollars. A lot of their part-time and casual members only dream of making $14,000 a year. People who work in children's aid societies, people who work in ACLs, people who work in developmental services: Many of those people barely make that amount of money.

Mr. Taras Natyshak: Thank you, Brother. That being said—

Mr. Bill Walker: Very leading.

Mr. Taras Natyshak: That wasn't leading; I'm just thanking my brother. You're all my brothers in here.

In that light, as a labour leader, how long do you feel it has been in this province since you've seen any progressive labour legislation or reform to the Labour Relations Act? Quickly.

Mr. Mike Grimaldi: Since 1994.

Mr. Taras Natyshak: Thank you for the quickly pointed question.

Thirdly, through the passage of these modest reforms to the Labour Relations Act, what will be the sentiment through organized labour in the province in terms of a signal from the government making these changes? Do you think it will go some way to repairing, reparation, easing some of those angsts that exists currently?

Mr. Mike Grimaldi: Two quick points: One is, it's a good start. It doesn't go far enough, because we believe card-check should be part of this.

Mr. Taras Natyshak: Unfortunately, it isn't.

Mr. Mike Grimaldi: We think that card-check is a real issue. Secondly, it would mean that this government has finally started listening to labour rather than attacking labour. Third, I guess, it would be a good thing for the middle class.

Mr. Taras Natyshak: How much more time have I got, Chair?

The Chair (Mr. Peter Tabuns): You have about a minute and a half.

Mr. Taras Natyshak: One of the areas that is unclear—well, it's clear to me but unclear to some of the members—is the need to have neutral off-site voting for the certification process, so that workers can feel as though they're not going to be undermined or pressured to vote either way. I'm wondering what this small step would be to infuse that into law.

Mr. Mike Grimaldi: I can tell you that I just had a conversation with one of our organizers today, who said

that in a workplace where they were trying to organize, what management did is, the HR director came down and had a meeting with all the employees on general workplace issues and then centred out the two people who were signing the cards and said, "You and you have to come into my office, because we have to have a conversation." That puts a chill on the whole organizing movement. And then, to put the vote into the workplace, knowing the approach of management, knowing that kind of bullying technique, means that it's really unfair to expect those workers then to feel safe and feel secure in that workplace. Just as the school law about bullying says that we need to protect those students, when we come to bullying management, we need to protect those workers.

It goes beyond that, to what I said about card-check. If it's good enough to get married, it should be good enough to sign a union card and mean the same thing. I think that your signature should mean something.

In addition to that, only putting it in the construction industry is, in my view, a real disservice to female employees, because the construction industry is male-dominated. Many of our workplaces are female-dominated, and they should have the same opportunity to join a union as a man should.

The Chair (Mr. Peter Tabuns): Thank you very much for that presentation.

Mr. Mike Grimaldi: Thank you.

The Chair (Mr. Peter Tabuns): Thanks, Mike.

CANADIAN AUTO WORKERS

The Chair (Mr. Peter Tabuns): Our next presenters—I now call on Canadian Auto Workers. I have Lewis Gottheil. If you could have a seat—and Jenny Ahn. You have 10 minutes to speak, with five minutes of questions. If you'd introduce yourselves for Hansard and please proceed.

Mr. Lewis Gottheil: Good afternoon, Mr. Chairman and members of the committee. My name is Lewis Gottheil. I'm counsel with CAW Canada. To my right is Jenny Ahn, director of political campaigns and mobilization for the CAW. Thank you for the opportunity to address you with respect to Bill 77.

As you know, CAW Canada is a leading private sector union in Ontario and in Canada and represents in excess of 80,000 workers in the province of Ontario. We represent workers in a diverse range of sectors in the economy.

If there's a unifying theme to our brief, it's this: Bill 77 makes significant yet modest progress towards the public policy objective of enhancing the exercise of collective bargaining in Ontario.

The bill recognizes that our constitutional right with respect to freedom of association goes further than the right simply to be a member of a union or the right for the union to be certified. Really, our fundamental freedom to associate goes further, and it includes the right to engage in meaningful collective bargaining with one's employer, to have input, meaningful input, into one's terms and conditions of employment. In this sense, the freedom to associate can be seen to be an instrument by which we can democratize, with a view to making productive and flexible the one place where most adults spend the majority of their adult life, the workplace.

Our brief focuses on two key themes and two key items, and that's where I'm going to spend my time with you just now. First is the matter of expanding access to first-contract arbitration, to ensure that a new collective bargaining relationship can properly take root and properly develop over the mid- and long term, to facilitate collective bargaining and the advancement of the interests of all parties in the workplace.

1530

The second item: We'll briefly touch on the new rules regarding disclosure of employee lists so that unions can properly determine who is subject to an organizing campaign, so workers can properly determine who amongst their co-workers is subject to, would be impacted by, an organizing campaign, and so that all parties to the process can avoid needless disputes at the end of the day before a labour board as to who is in or out of the proposed bargaining unit and really facilitate the process.

As you know, Bill 77 proposes that first-contract arbitration be available after the Minister of Labour has issued a no-board report; that is, after the minister decides that it's not advisable to appoint a conciliation board. Why is this appropriate? It's appropriate because first-contract negotiations are notoriously difficult. Oftentimes, the parties have just come off of what's been perhaps a contentious certification campaign. Emotions can be a bit raw still. Parties are still getting used to the process and still taking steps to build a relationship that might have gotten off on the wrong foot initially.

Then the rules of employment that have been in place have to be reduced into a collective agreement, and sometimes those rules are sketchy, sometimes they're not well set out, and that process is a pretty important task and takes quite a bit of effort.

Moreover, there's no just-cause protection yet in the workplace, so workers may be a bit apprehensive about even stepping forward to participate in the collective bargaining process for fear—still yet—of reprisal. Moreover, there's an incentive built into the system at this point for delay. There's an incentive, unfortunately, that might be attractive to employers to delay in order to do two things: number one, frustrate the process so that expectations of workers are diminished and therefore the bargaining power of the bargaining agent is weakened; and the second is that, according to the act, after a year, if there's no collective bargaining agreement, the union is vulnerable to decertification—unfortunately, an incentive for delay. So access to first-contract arbitration in this more flexible fashion, in this more flexible system, means there's no incentive for delay, but there is an incentive for the parties to reach a voluntary settlement rather than risk putting the resolution of the dispute in the hands of an arbitrator.

One might think that first-contract arbitration might persuade the parties to defer to an arbitrator, but in our

brief we refer to empirical evidence, as set out in an article at page 8 of our brief, where it appears that the empirical evidence reveals that parties are more inclined to make a voluntary deal, particularly in a first-contract arbitration process, and fashion their own terms and conditions of employment. So, in this sense, first-contract arbitration enhances the public policy objective of free collective bargaining. It allows the parties to build an undeveloped relationship into an established relationship. It allows that relationship to get rooted. If the parties are unable to establish it themselves, it gives them the opportunity to do so, and it facilitates the fundamental aspect of the freedom of association: true collective bargaining.

This proposed provision is not new. It's found in the Quebec Labour Code, and it's found in the labour codes of Manitoba and BC. Ontario, in a sense, would be joining constituencies or jurisdictions that are quite established in Canada.

Now, let me move on quickly to our second key point, and that's the point of lists. The issue of employer disclosure of lists has become all the more paramount now because of the changing nature and changing demographic of our workplaces. As we note in our brief and as has been established by others, the number of casual, contract, part-time, precarious workers in the workplace has multiplied exponentially over the past 25 years. The five-day-a-week, 9-to-5 workforce is disappearing.

To access collective bargaining, to access certification, workers need to know who their co-workers are so they can communicate with them. Workers in unions need to know what job their co-workers do, what classification they're in, so they know who will be affected by the application for certification.

It's hard to identify or communicate with workers when they have no fixed schedule. They may be casual; they may be in or out of the workplace. How do you talk to them? You don't know. We have real-life experience with this problem.

Some of you may know or recall that CAW Canada engaged in a certification campaign at the Niagara casino. We had significant interest expressed to us by a significant segment of the workforce for unionization, and we engaged in that campaign. We filed an application for certification; we had satisfactory support to make that application. Two days before the vote, we get a list from the employer. Several hundred casual workers appear on the list, and they live in many towns and cities in the little horseshoe adjacent to Niagara, including Toronto. No one had any idea who the workers were, nor could we have reasonably had an idea, even with due diligence, because the workers came in and came out, almost unannounced, due to convention, due to fluctuating demand at the casino—a fundamental problem. We had the prospect of days and days of litigation to figure that out.

We can multiply those examples. We have a campaign going on right now with respect to taxi drivers who work in and out of Pearson Airport, with the same problem in terms of identifying who it is people should talk to. I think to avoid litigation, to avoid confusion, to avoid surprises and to allow workers to communicate with each other to facilitate collective bargaining, this is a very, very important amendment, which I urge you to look on favourably.

There are lots of other points in the bill. I'm going to stop here to allow us to have a bit of a discussion on any issues you'd like to talk about.

The Chair (Mr. Peter Tabuns): Thank you very much. Questions go to the government. Ms. MacCharles.

Ms. Tracy MacCharles: I'd like to thank you for your very comprehensive presentation, particularly your analysis of the first-contract arbitration provisions expansion to that. I certainly learned a few things, so thank you for that.

But my question is more about the lists, and providing lists of employees. I'm wondering if you have any awareness of how this happens in other jurisdictions, any best practices around this. Would we be leading or following others if this was adopted?

Mr. Lewis Gottheil: My sense is, Ontario would be leading in this respect. However, I want to underline that the issue relating to the provision of lists has already been settled once there's a collective agreement.

Ms. Tracy MacCharles: Of course. Yes.

Mr. Lewis Gottheil: Although there was some controversy, now the law is quite clear. Once there's a collective agreement, the employer has to provide not just the names and classification of workers, which is what I understand Bill 77 to speak of, but even go further: their addresses, emails, phone numbers.

The balancing act—if there's any concern about being a little bit too far ahead in terms of the privacy concerns, they have been addressed by arbitrators in the context of established agreements. The moderate step forward that's provided here, I think, is a balanced way forward that balances the workers' right to privacy, yet at the same time allows workers to communicate with each other and associate with each other. It's one area where Ontario may be taking a step forward but it's a moderate one, and it's the right one to take at this time.

Ms. Tracy MacCharles: You've answered my next question about privacy. Any other questions from the government side? Okay, thank you very much for your presentation and for being here today.

The Chair (Mr. Peter Tabuns): I'll go to the opposition. Do you have any questions?

Mr. Jim McDonell: Yes, I have a question.

The Chair (Mr. Peter Tabuns): Mr. McDonell?

Mr. Jim McDonell: I think everybody has a keen interest in making sure that the workers have a fair chance to voice their opinions or their wishes. I'm wondering why we don't defer to the very similar process we have in our election system. It may be off-site but it's certainly a secret ballot. You're not allowed, on either side—or, in the case of political elections, the candidates or parties aren't allowed to advertise or be within a certain distance of the polling stations. Why is that not

enough? I can't help but think that that's the most fair. Even in a card-based system, employers know what their choice is. With a secret ballot, nobody does.

1540

Mr. Lewis Gottheil: Well, let me address it this way by saying, my understanding is that—

Mr. Jim McDonell: I'm talking even when you talk about telephone—as soon as you go to those systems, people know, but then they're open. There's no fair way for either side to see that nobody was coerced one way or the other.

Mr. Lewis Gottheil: Well, let me break it down. We didn't address the telephone and Internet systems in any detailed way in our brief, but let me deal with that and then deal with the second part of your question.

The telephone and Internet voting system is a moderate step forward that we know already the federal board uses. Anything that allows a worker to freely express his or her views without the apprehended prospect of an employer knowing or influencing that choice is desirable, and a real-life problem is, if you have a vote and the worker—

Mr. Jim McDonell: But I guess if I'm—

Mr. Lewis Gottheil: If I can—

Mr. Jim McDonell: But I'm the same way, though: You have to have the employee know that he's not being coerced by the other side as well. He should be free and open to make his choice and have nobody know. I can't help but think when I sit in front of—if somebody is really interested in making sure they know how I can vote, if I don't go by myself behind something, it's open for abuse. That's all I'm saying. It's open for abuse.

Mr. Lewis Gottheil: Let me take it back. Internet and phone system: There's no inference that anyone will know except the worker. The worker is in control of the code. The worker can make that choice at an appropriate time and place. It gets rid of the prospect of the real-life problem of having a vote in the worker's workplace, sometimes in the cafeteria, sometimes in the conference room. Wouldn't you know it? On a number of occasions that cafeteria or conference room is right next door to the manager's office, right next door to the HR's office.

We have had a number of real-life experiences where the supervisors stand outside the cafeteria with their arms like that and watch the people go in, make a note of who goes to vote and who doesn't, knowing that even that mere presence and the mere actions can have an influence. So Internet voting and phone voting is a step forward.

Let me jump, however, to the reference you made just a moment ago, which is in Bill 79—grant you, a different bill—the issue of card-based certification is put forward. Card-based certification was the way unions could gain collective bargaining representation for over 40 to 45 years. There was a postwar consensus that that was the way to do it in all jurisdictions. It's consistent with the objective that was expressed in the Labour Relations Act for 40 to 45 years, which is that collective bargaining is a desired public policy objective. For 40 to 45 years at least, governments looked favourably upon the exercise of collective bargaining and didn't even take—

The Chair (Mr. Peter Tabuns): Thank you for the presentation.

Mr. Lewis Gottheil: Thank you.

SEIU HEALTHCARE

The Chair (Mr. Peter Tabuns): I'm going on now to SEIU Healthcare Canada, Eoin Callan and Abdullah BaMasoud. Gentlemen, as you know, you have 10 minutes to present. There will be five minutes of questions, and if you would start by giving your names for Hansard.

Mr. Eoin Callan: Good afternoon. My name is Eoin Callan, and I'm joined by my colleague Abdullah BaMasoud. I'd like to start by thanking the committee for the opportunity to appear before you this afternoon.

SEIU Healthcare advocates on behalf of more than 50,000 front-line home care workers and health care workers in Ontario who work across the spectrum of care: hospitals, nursing homes, retirement homes and out in the community providing services to the elderly, the ill and infirm in their home. They're a diverse population. It includes personal support workers, registered practical nurses, RNs, health care aides and a variety of other front-line health care providers.

So, today, we'd like to speak specifically about Ontario's home care sector and the implications for this section of Bill 77. To start with and to provide a little bit of context, as many of you will be aware, home care has been identified as vital to delivering on the government's goals of improved health care performance while constraining expenditure growth in the costly acute and long-term-care sectors. Home care allows people to remain at home and live independently for longer, which is a preferred option of 88% of Ontarians who would prefer to receive care in a home setting.

Home care also has a critical role to play in addressing emergency room wait times and occupancy rates for alternative-level-of-care beds. Yet over the past decade, the home care sector has experienced significant instability and uncertainty. Notably, a report by former Health Minister Elinor Caplan found that home care clients, service providers and front-line staff all identified instability in the sector as disruptive for the provision of quality care. The report by Elinor Caplan also found that home care clients consider continuity of care important—the bond that they form with the caregiver they depend on to come into their home and support them with their most critical and intimate needs.

The concerns around instability and the concerns around continuity of care have peaked at a couple of moments in time over the past decade. In 2003 and 2007, both moments when there was an attempt by government to pursue renewal in the home care system and to initiate a procurement process that would see home care contracts—the contracts that CCACs issue to agencies to deliver services—begin to change hands. Each time that

has occurred, that moment has proved volatile, and indeed politically explosive. Certainly, Minister McMeekin and, the other day, Sophia Aggelonitis, were speaking to the incredibly disruptive effect this transition had in their communities and the way in which it eroded client care and also eroded trust and created significant communication challenges for government in their region.

The reason that this moment of transition of a home care contract from one provider to another is so jolting and disruptive is because what happens at this moment is that every single home care client in a region—an entire riding, and indeed across several ridings—loses their caregiver. They lose their caregiver overnight, and it happens simultaneously for thousands of people. Indeed, at that same moment, every single front-line care provider in that region or front-line personal support worker or homemaker will also be terminated overnight, all at once, with significant costs in terms of severance liabilities.

In a number of studies—for example, a 2009 study—it was found that continuity of care is nearly impossible to sustain in this environment within the current system where you do not have managed transitions when home care contracts change hands. So in 2003 and again in 2007 in the Hamilton area, there was significant public backlash, and we saw hundreds of home care clients, their families and front-line staff come out onto the streets.

This led, in 2007, to the imposition of a moratorium by then-Health Minister George Smitherman. It's important to underline that that moratorium remains in place. It's still with us today, five years later. It has not been possible to renew the home care system. It has not been possible to proceed with procurement or to enter into fresh contracts in that sector to deliver services because of the moratorium that was imposed in 2007 as a result of unmanaged transitions and because that system of unmanaged transitions has yet to be addressed.

Importantly, in the intervening years a number of studies have shown that unmanaged transitions have negatively affected recruitment and retention. They've increased the turnover rate for personal support workers, undermined client care and client satisfaction, and resulted in heightened instability in the sector. An analysis of home care workforce data shows a spike in turnover during those periods when a contract changed hands. And a survey of personal support workers whose client and employment relationships were disrupted by the status quo found that only 38% stayed in the sector. What that means is that 62% of personal support workers are leaving the sector entirely after an unmanaged transition, this at a time when demand for personal support is rising and is forecast to have doubled by 2031, and at a time when the government has identified the goal of providing an additional three million hours of personal support over the next three years.

To address this challenge that has been with us for much of the last decade, we're recommending moving toward a system of managed transitions. A central plank in a system of managed transitions in the home care sector would be captured in the measure in Bill 77 that would extend what's called successor rights specifically to homemaking and personal support services under the Home Care and Community Services Act. That would allow front-line caregivers to stay with the client, for that continuity of care for that client-caregiver relationship to be maintained during that transition period. We'd really like to tease out that particular provision that applies to homemaking and personal support services because of the way in which it would support continuity of care and recruitment and retention of personal support workers and the government's broader health policy goals.

1550

This recommendation has a significant amount of support, including from some surprising quarters. For example, Don Drummond, the TD economist, the former banker, in his recent report, recommended, in recommendation 5-105, that government pursue system transformation in an environment where successor rights were present. Essentially, Drummond dismissed some of the concerns associated with successor rights, saying that they do not prevent necessary change and systemic reform from occurring. To quote him directly, he says, "Successor rights as currently defined do not necessarily limit the right of the government, for legitimate reasons within its purview of responsibility, to engage in system reorganization. Successor rights simply require that the government respect successor rights in doing so."

One of the things that happens when successor rights are in place is that if there's a collective agreement, for the life of that collective agreement—which might be a few months; it might be a year or two—it stays in place during the transition. Drummond notes that inherited agreements do not live forever. These provisions can be accepted initially and bargained differently when they come up for renewal. He underlines the stabilizing role that successor rights play in a transition and the opportunity to make changes going forward, even where successor rights exist.

In the Caplan report, Elinor points out that enhanced continuity of care is vital and she recommends requiring transition planning, both entering and exiting a home care contract, and ensuring better communication to clients and home care workers.

Indeed, we wanted to draw your attention to a submission that the committee will already have received from the DeGroote School of Business. I'll quote from the DeGroote School of Business' submission directly. It recommends that the committee consider—

The Acting Chair (Mr. Bill Walker): Mr. Callan, you have one minute remaining in your presentation.

Mr. Eoin Callan: —extending successor rights to the home care services sector. It suggests that this would support recruitment and retention and provide continuity of care to frail, elderly and sick clients.

If one's wondering why a business school would speak in favour of this measure, the evidence really is in the footnotes, where a series of studies from 2004, 2006, 2007 and 2009 show that there's a strong evidence-based case for this measure.

Thank you.

The Acting Chair (Mr. Bill Walker): Thank you for your presentation, Mr. Callan. We now have up to five minutes for questions, and I'll turn, for this round of questions, to the official opposition. Mr. McDonell?

Mr. Jim McDonell: Thank you, Mr. Callan, for coming. I know the tendency is to think of large companies here, but the majority of companies that we're talking about are very small. You talk about successor rights. If you're talking, in your case, most times—if we go back to the VON, there's a collective agreement. They were taken over by Bayshore; they have a collective agreement.

The issues talked about here aren't so much evident. But I worry about the smaller companies, where, really, we're taking away people's right to actually—the entrepreneurial spirit of getting involved and families taking over businesses because now they may be forced to take on employees. What you're really doing is circumventing the free market system where people are allowed to start up their own businesses, hire their own people. In a lot of cases, it's their family that's starting it. Any comments?

Mr. Eoin Callan: Sure, a couple of comments: I think the concerns that you raise are legitimate. Firstly, I think it is notable that Don Drummond doesn't necessarily agree with that analysis. He has looked at this question and ultimately concluded that it doesn't inhibit entrepreneurial opportunity in a material way; that after the transition period is over, there is ample opportunity for inheritors of services like home care services to pursue independently a labour relations or business strategy that's in keeping with their goals.

The other thing that I think is worth underlining is that—the notion that in the home care sector we're dealing principally with family businesses I'm not sure is well supported by evidence. Indeed, if you were to look at market share—

Mr. Jim McDonell: I'm not talking about home care. This will apply across the board. It applies to home care. I guess my discussion there was that they tend to be bigger companies.

Mr. Eoin Callan: Yes.

Mr. Jim McDonell: So the company coming in also has an equivalent contract somewhere else. I'm talking not so much about them but about the smaller-based companies, where you're talking about—

Mr. Eoin Callan: Outside of the home care sector.

Mr. Jim McDonell: Yes.

Mr. Eoin Callan: So in the home care sector, we're talking principally about large US multinationals like Extendicare, which is based—

Mr. Jim McDonell: It could be anybody, because it is a free system, but anyway—

Mr. Eoin Callan: Well, the evidence suggests that we're talking, in Ontario, in the home care sector, principally about large, fast-growing, for-profit US and publicly listed entities.

The point that you take about the wider application of successor rights, I think, leads us back to the opening remarks, which is that we're here this afternoon to address specifically and exclusively the application of successor rights in the home care sector to personal support and homemaking services. We're not speaking to successor rights beyond that specific example, where a variety of additional issues arise that you've underlined.

Mr. Bill Walker: If I could just take it on from there, I haven't read anything so far, or heard any of the deliberations, so point me out if I'm wrong. If we have someone come in who buys a contract, wins a contract—two points here. They bring their own qualified staff.

Mr. Eoin Callan: Sure.

Mr. Bill Walker: My concern is, we're actually reverse-discriminating against the employees they may bring to a contract. If the successor has first rights, then what about the person who's coming in with the new company, who may be trained in an even higher capacity? Again, we get back to—I think the last person who presented was concerned about the care of the patient. Is there anything in there about that one?

The second piece would be kind of the reverse of that. If a company has employed someone who has been found to still be in the employ of that company but has not provided what I would suggest is a high level of service, the ability to get rid of that employee—because I don't necessarily want to inherit someone who is going to tarnish my image or my business reputation or my service delivery.

Mr. Eoin Callan: I think that both are legitimate concerns, and I think both can be addressed within the context of the specific language around the home care sector in Bill 77. Again, as Don Drummond underlined, after a fairly brief period of transition there is a full opportunity for an incoming provider of services who is acquiring a contract to deal with any staff that they don't feel are providing quality services and, indeed, to replace them with existing staff.

But when you pull back the lens and look at the evidence and look at the studies cited in the submission by the DeGroote School of Business, what you'll find is that in the hypothetical or anecdotal scenario, especially as you look at other industries and other sectors, those kinds of circumstances might arise. But what the evidence shows is that in the home care sector, you're not dealing with an oversupply of qualified professionals. What you're dealing with is an acute shortage of qualified professionals in regions across the province that is getting worse over time, at a point in history when, because of our aging population, demand for personal support services is rising.

What we have in this sector is a turnover problem, a recruitment and retention problem, that is being exacerbated, according to the evidence, by unmanaged transitions—

The Chair (Mr. Peter Tabuns): Mr. Callan, I'm afraid your time is up. Thank you, and my apologies for mispronouncing your name when you came forward.

Mr. Eoin Callan: Not at all. Thanks very much to the committee for the time this afternoon.

UNITED STEELWORKERS, LOCAL 9597

The Chair (Mr. Peter Tabuns): Next up, I call United Steelworkers, Local 9597: Sean O'Connell and Tahir Mufti. Gentlemen, you've been here for a few hours so you know you get 10 minutes to speak, with five minutes of questions. If you'd give your names for Hansard, then we'll start from there.

Mr. Sean O'Connell: Thank you very much. My name is Sean O'Connell. I started working as a security officer just after I left high school. I have worked in different security agencies in the Ottawa area for over 20 years since.

I got active in our union, United Steelworkers, in 1994, and in 2007, I was elected VP of our local union, Local 9597. There are over 2,500 security officers from Windsor to Hawkesbury in our local, working for different security companies. Our sister local, 5296, represents about another 2,000 officers in the GTA.

I now spend much of my time working with our local union, representing our members in collective bargaining and many other workplace issues.

1600

Security officers are sometimes sort of invisible. We are often the people you walk by when you enter the building, when you leave the shopping centre and when you drive into a local factory parking lot. But we perform important and often challenging work. We often work alone, under demanding conditions. We work tough shifts.

Over the last 10 or so years, our union has begun to win some better incomes, benefits and treatment for our members. But lack of successor rights in our sector is a huge issue that is keeping the wages low and constantly causing what we call a race to the bottom.

I am accompanied today by my fellow security officer and union brother Tahir Mufti. You will hear from him next. Here's what happened to Tahir and his co-workers:

The USW has had a province-wide collective agreement with Garda Security for many years. The agreement provides officers with recognition of their length of service with the company and just-cause protection, with a very basic benefits package for their families and small contributions to a pension plan.

Garda officers provided security services at the main provincial courthouse on Elgin Street in Ottawa and were represented by the USW. Their wage rates were a modest $11.50 an hour as of November 2010.

The actual client retaining Garda was CB Richard Ellis, a Los Angeles-based firm that manages the courthouse property for the Ontario government, who, on December 1, 2010, chose Inkas to take over Garda's business to provide security services at the courthouse. Inkas, a non-union company, hired most of the Garda employees working at the court site.

Wage rates remained unchanged. However, Inkas did not provide the security officers with any benefits coverage or pension contributions. As well, all the rights above the minimum in the Employment Standards Act were taken away. Officers lost their benefits and their pension plans and also paid bereavement leave and sick leave. They were reduced from 10 paid holidays to nine, and their vacation entitlement was capped at two weeks.

In an attempt to regain some of what had been taken away from them, the now-Inkas employees signed USW membership cards and won the subsequent representation vote. The USW was certified in January 2011.

Collective bargaining took place; however, Inkas refused to agree to any seniority-based job security rights or any monetary improvements. Conciliation and mediation assistance from the Ministry of Labour proved unsuccessful. The final offer from Inkas was a wage increase of 25 cents, conditional on the workers renouncing their right to union representation.

A strike began on October 3, 2011. Inkas declared that employees would be locked out until they accepted its "offer." Inkas then hired replacement workers to guard the courthouse.

USW filed for first-contract arbitration under section 43 of the OLRA. In January 2012, the Ontario Labour Relations Board ordered an end to the lockout and ordered the parties to submit to binding interest arbitration.

The officers returned to work on February 10, 2012. The parties arranged for a board of arbitration to be constituted. In March, a hearing date of June 4 was set. Almost at the same time, the employer announced that effective April 1, 2012, it would no longer be the employer of the guards and a company called Valguard would become their employer.

USW suspected that Inkas still held the contract for security services and was simply subcontracting to Valguard. The union filed a complaint under sections 1.4 and 69 of the OLRA. The response from Inkas confirmed that it retained the contract for security services at the courthouse while Valguard pays the wages.

In summary, the former Garda security officers and their families have lost their modest benefits, their pension contributions and other basic terms of employment while this new employer remains opposed to a fair collective agreement.

Bill 77 can fix this gaping hole in the OLRA. Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you. Questions here go to the third party. Mr. Natyshak.

Mr. Taras Natyshak: Was there more time on their submission, Chair?

The Chair (Mr. Peter Tabuns): There is.

Mr. Taras Natyshak: And did—

Interjection.

The Chair (Mr. Peter Tabuns): I'm sorry. My apologies.

Mr. Tahir Mufti: My name is Tahir Mufti. I am a security officer and I'm glad to speak to you today.

I think it is important that you hear directly from someone like me, whose working life has been damaged by the lack of successor rights in the contract services sector. I was hired by Garda Security in 2004. Garda

assigned me as part of its group of officers providing security services at various locations and in 2008 assigned me to the site of the Ottawa courthouse in Ottawa.

As a Garda employee, I had a collective agreement between my employer and the United Steelworkers. I made a wage rate of $11.50 per hour. I had some benefits that were very important to me and my family. I worked 24 hours per week at the courthouse site and was assigned to another Garda site as a floater.

As Sean told you, when Inkas Security took over our worksite, we lost so much. Our union was taken from us overnight. We lost all of our benefits, which were not huge in the first place. We lost dental, drug coverage and pension; our vacations and holidays were cut back.

There is no reason that workers like me who work in the contract services sector should not have the same rights that others have in Ontario. When their workplaces are taken over by a non-union company, they keep their collective agreement and their rights. Why do people in my kind of job not have the same rights?

You can help stop this problem. Thank you.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Natyshak.

Mr. Taras Natyshak: Thank you, Mr. O'Connell, Mr. Mufti. Your stories are very poignant as they relate to specifically the successor rights portion of this bill. It highlights, really, the word "fairness" that is built into the title of the bill, because what you're asking for is simply what you bargained for at the beginning. There will be pushback from those on the business side that don't believe in the need for this but I don't understand why, because the nature of business in our economies over hundreds, thousands of years has been that of negotiating, and it will always be that. Whether it's a barter system or the free market, we will negotiate.

What you're asking for and what the bill addresses is simply keeping what you negotiated fairly and protecting that. That's why this committee has heard us use the words "modest, basic, fair reform to the Ontario Labour Relations Act," and that's what I hear in that story.

I'm wondering what your members feel about the need to implement this as quickly as possible. What is the sentiment around successor rights throughout your membership?

Mr. Sean O'Connell: Well, they definitely want it. They want to keep what they already had. I mean, when you're already only making $11.50 an hour, with little benefits and pension—like, when we're talking pension, we're not talking big bucks. We're talking 1% of their gross earnings. If they're making $20,000 a year, that's all of, what, $200 a year for a pension.

This is what they're asking for; this is what they've come to us for. That's the best I can explain that to you now.

1610

Mr. Taras Natyshak: It seems as though the ability for other companies to swoop in and change the terms, although they may be related employers, one holding the contract, the other managing the payment of wages—it seems as though that adds to the disruption of your workplace, maybe even the quality of service that you can provide. If employees aren't certain whether they're going to work tomorrow, you wonder how they go about—if they understand they might have to be searching for a job the very next day, their level of commitment to the workplace can't be a solid commitment. I wonder if this will go a long way, and specifically in the security field, in terms of having folks feel as though their work is valued.

Mr. Sean O'Connell: Most definitely. It would certainly help their morale, knowing that when they go to work at night, they're going to be paid, they're going to be looked after if something should happen medical-wise, stuff like that.

Mr. Taras Natyshak: We have a security force here that are special constables, who guard us all and guard the building, the Legislature. They're covered under the Ontario public service and they're paid decently, because they provide a good service. I'm certain that they would relate to the job that you do and the need to actually be paid well and to have some job security. So I think this is what the provision within the bill does. It respects those industries that are vulnerable to outsourcing. We appreciate your speaking in support and hope that it adds to the security of your security forces.

Mr. Sean O'Connell: Thank you very much.

Mr. Taras Natyshak: Any other comments, if the Chair has any seconds on the clock? I don't know.

The Chair (Mr. Peter Tabuns): You have a little time. Mr. Coteau would like to ask a question, if he could.

Mr. Taras Natyshak: Certainly. We'll pass it along.

Mr. Michael Coteau: Just for clarification: So you're working for a company, and then the company is kind of sold. The same company uses another company to manage the payroll or manage the employees, but the same person or the same shareholders are making the profit from the actual company? Nothing's changed that way?

Mr. Sean O'Connell: Correct. In the case that's going on right now, in regards to my brother here—

Mr. Michael Coteau: So it's the same people—

Mr. Sean O'Connell: Same people.

Mr. Michael Coteau: —but they've figured out a system to take advantage.

Mr. Sean O'Connell: Basically, they just hired a cheque signer; that's it. That's the best way I can put it.

Mr. Michael Coteau: So would we have to make some amendments to the actual bill to kind of tap into that area too? That's the question. I don't know if—

Mr. Taras Natyshak: There are different sectors—you've heard submissions today that there are amendments specifically to that clause that would broaden the scope. But as it's written in the bill, it covers the contract sector. There are other definitions of that that may be included, but I think as it's written, it would cover the security and contract sector in security.

Mr. Michael Coteau: Thank you for sharing your story here today. It was a very valuable story to hear, and I appreciate you taking your time to come here.

Mr. Sean O'Connell: Thank you very much.

Mr. Bill Walker: Time's up, Mr. Chair?

The Chair (Mr. Peter Tabuns): Yes, it is. Sorry.

Thank you very much for your presentation. We appreciate it.

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 793

The Chair (Mr. Peter Tabuns): Next up: International Union of Operating Engineers, Local 793. Is there a representative here?

Good afternoon. You have 10 minutes to present. We'll go to five minutes of questions. If we could have your names for Hansard, and please begin.

Mr. Ken Lew: Ken Lew, labour relations manager for Local 793. With me today are Melissa Atkins Mahaney, in-house legal counsel, and Josh Mandryk, law student.

The Chair (Mr. Peter Tabuns): Very good. Please.

Mr. Ken Lew: Thank you for the opportunity to speak here today and to speak in favour of Bill 77. The operating engineers, Local 793, for those who are not familiar, are a 11,000-member-strong provincial builder trade union. Our members, quite literally, help build Ontario. Whether we're talking about the roads, sewers, buildings of all natures, hospitals, resources, solar farms, our members are the heavy equipment operators—cranes, bulldozers, excavating equipment—to help bring these projects from level ground to providing a very meaningful benefit to Ontarians.

We are here today, again, to speak in favour of Bill 77. This morning, as we were preparing, I noticed on the list of presenters that we are the only construction-specific presenter before you today, and I think we'll add a very unique perspective to the discussion. We'll get right into it.

I'll pass it over to Melissa, who will take you through our reasons. There's a handout for you to follow as well. Thank you.

Ms. Melissa Atkins: Again, thank you very much for providing us with an opportunity to speak today. We feel that we bring a bit of a unique spin to all of this, being the only construction trade union making a presentation, and we've provided you with a relatively detailed brief of our view of why the Bill 77 amendments are, in our view, very positive steps forward. We'll allow you to read that at your leisure, but there a couple of points that we want to address today that are specific to our industry and that we hope you take into consideration.

With respect to the construction industry, there are unique realities that face the construction industry that don't face other sectors, whether industrial or otherwise. Most of this stems from the fact that the employment relationships, to a large extent, function in a different sort of way, not in the traditional employer-employee relationship that many of us are used to. The nature of the employment is oftentimes seasonal, it can be short-term, and the workforce, to a large extent, is quite transient because they're required to move to wherever the work is located. That can be in and around the GTA, as we see lots of construction happening today, but it can also be in more remote areas of the province and can last for short periods of time or long periods of time. People move around very, very frequently.

The reality of all of this means that, in our experience, employers, particularly with respect to what happens when organizing efforts on behalf of unions start to take place, are oftentimes able to utilize this mobility of the workforce to their advantage in a way that assists in defeating organizing attempts and the desires of employees to engage a union to represent their rights.

Employees, for the most part, if they're viewed as being favourable to having a union come in—all an employer needs to do is actually move the employee to a different job site with oftentimes very compelling business-related reasons as to why they're going to move them, whether or not that's the true motivation behind it. The reality is that employees—because of the nature of the work and because when it comes to seasonal considerations and the fact that employers frequently have to lay off people for lack of work, whether it's on a particular project or, in a broader sense, the workforce is reducing—without recall and seniority rights, have very little protection, and the unions really have their hands tied when it comes to actually being able to do something to step in and help these employees.

This problem is only compounded by the fact that construction employees are excluded from the termination and severance provisions under the Employment Standards Act. So where an employer—for the most part, a lot of them aren't so apparent and simply terminate employees. While that is the case some of the time, more often the case is that we are faced with employees who are handed a record of employment that says they're laid off due to lack of work. Without really compelling evidence, which is oftentimes, as we all know, very difficult to put your hands on, there's not a lot that we as a union can actually do. So it's with this backdrop that we fully support the amendments that Bill 77 is proposing to usher in. Specific to us, I'd like to speak to two of those amendments briefly.

With respect to the proposed amendments to section 98 of the act, the interim reinstatement amendments, Local 793 strongly supports any measures that will help facilitate interim reinstatement and make this more expeditious remedy for employees who we feel are improperly removed from the workplace, whether that means through termination or improper layoffs, as a result of union-organizing efforts.

The current formulation of section 98 places significant hurdles on construction trade units in actually getting this remedy, the reason being that right now the threshold requires that unions prove that there is irreparable harm in order for you to actully have an employee reinstated. While in some cases the facts lend themselves quite easily to proving irreparable harm, the board has consistently held that the fact that an employee may lose significant wages isn't sufficient to meet that threshold.

The Chair (Mr. Peter Tabuns): Excuse me, please. I think that's a five-minute bell.

Interjection.

The Chair (Mr. Peter Tabuns): It's five? Okay. We will recess for 10 minutes. We have to go down the hall for a vote.

The committee recessed from 1622 to 1637.

The Chair (Mr. Peter Tabuns): Good. That had the desired impact.

Sorry to have left you that way. We're back. If you would proceed.

Ms. Melissa Atkins: Great. Thank you.

As I was saying prior to our break, Local 793 supports the removal of the requirement that interim relief can only be granted where a union is able to prove that irreparable harm will flow to the employee. The proposed amendments instead shift the focus from irreparable harm to the employee to whether or not it's irreparable harm to the employer. There's a presumption that reinstatement will happen unless it would cause irreparable harm to the employer. In our view, this shift better recognizes the tremendous economic impact that a termination can have on an employee, not only in the short term but in the long term, on their career and on their families. This is specifically even more damaging to employees now, when we have such high debt-to-income ratios in the province. As we know, many employees live paycheque to paycheque, so even potentially being off work for a week, two weeks, a month—all of a sudden, the impact can be much greater than one would necessarily expect.

The fact that in the construction industry, with the seasonal nature of the work, many of these employees are frequently also utilizing employment insurance in the periods of layoff, compounds the issue that if they're terminated in the course of an organizing drive, oftentimes they've already exhausted their EI entitlements. We face this routinely. Employees come to us during organizing drives and they express this fear, saying, "If I get terminated, I have no net left. What am I supposed to do to feed my family? I've got children to put through school. How can I justify taking that risk of bringing a union in, even though if it's successful, we know in the long term that it's going to mean greater wages, better pension, better benefits, if there's no guarantee of where I'm going to wind up at the end of the day? I've got my family to support."

In our view, these modest changes to section 98 of the Labour Relations Act are exactly what's needed to help instill that confidence back into the system.

The Chair (Mr. Peter Tabuns): You have a minute left.

Ms. Melissa Atkins: I'll briefly comment on the first-contract arbitration provisions. Again, in our view, this modest shift, where we don't have to go through potentially the same long process of litigation, which is effectively what happens under the current regime, because—as opposed to having automatic access, which is what employees and unions used to have, we now have a process where you have to essentially prove that the employer has done things to intentionally stymie the process of collective bargaining to get to that hurdle.

In our view, if you can completely sidestep that process and instead work towards the resolution phase of things as opposed to more pointing of fingers as to who has done what and why you haven't been successful, that can only be a positive move forward for not only unions and employees, but for employers as well.

Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much. Questions go to the government. Ms. MacCharles.

Ms. Tracy MacCharles: Thank you to all of you for being here. It's great to hear input from your sector. I certainly hope to see you out in my riding of Pickering–Scarborough East when the 407 is constructed—the publicly owned part of the 407. Hopefully, we'll see your folks out there.

I don't know if my question is directly about the bill. You talked, before we broke, about the seasonal nature of workers, the members you represent, and the little notice on termination.

I just want to get a sense from a collective bargaining point of view. How do we do in negotiations around this? Are there employers that do a better job on this than others? Is this a Bill 77 issue, or is this a collective bargaining issue, the notice issue?

Ms. Melissa Atkins: Well, I'll speak to that, if that's okay.

Ms. Tracy MacCharles: And I'm asking because I don't know.

Ms. Melissa Atkins: I think that it's both. I think Bill 77 is an effective step forward in that regard, and it basically, in our view, helps minimize some of those negative impacts that particularly disadvantage construction employees. It's not a total resolution to all of the issues that the construction employees face, but it's certainly a very positive step in the right direction.

To a large extent, if we can't get to the point where we can at least negotiate with an employer, then these protections have little relevance to us. I think that Bill 77 gets us to the point where there's a better likelihood of at least getting to the table and being able to negotiate those terms and conditions which are essential to these employees. With these mechanisms in place, not only once you've established bargaining rights, it allows you to actually arrive at that first collective agreement, which is another important aspect of this bill. So I think it's part and parcel of all of these factors together, but definitely a step in the right direction.

Ms. Tracy MacCharles: We've heard from quite a few people on the proposed expanded first-contract arbitration provisions. I'm interested in your thoughts on—if that was to go forward, does it keep parties sufficiently motivated to bargain hard, as they say?

Ms. Melissa Atkins: I think it absolutely does. The reality is that it's in everyone's best interests to arrive at a collective agreement relatively expeditiously. We know that employers in this province, particularly in the case where they're trying to engage in negotiations during the

busiest construction times of the year—spring, summer, fall. There's a real motivation to get things done quickly for a majority of employers who aren't so acrimonious to this relationship.

The reality is that with any sort of protracted litigation and even the prospect of going to first-contract arbitration, there's a lot of preparation involved, a lot of costs involved. If everyone is working towards the angle which is—you know, in an ideal world that's what's going to happen. You can avoid a lot of those costs and the time commitments etc. that would otherwise be present to still engage in a course of litigation. It's just, is there another step that happens before you get to that stage of the litigation—which is what the Bill 77 amendments effectively remove. So unions aren't going to have to file "failure of duty to bargain in good faith" complaints, which we know take up a lot of time at the Labour Relations Board, involve lots of expense to taxpayers.

Finally, in applications under 43, where, again, the focus is about showing that an employer has engaged in—whether it's unlawful conduct or failing to make expeditious efforts to conclude a collective agreement. At the end of the day, the parties are going to get to arbitration if they're successful.

It's just, is it necessary to create further tensions between the parties? Because once they do have that collective agreement in place, they have to have an ongoing relationship with one another, and if that relationship is already tarnished from the outset—

The Chair (Mr. Peter Tabuns): Thank you for your presentation. I'm sorry; we've come to the end of the time. Thank you very much.

HOSPITALITY AND SERVICE TRADES UNION, LOCAL 261

The Chair (Mr. Peter Tabuns): I now call on Daniel Bastien, with the Hospitality and Service Trades Union, Local 261.

Daniel, good day. Good to see you again. As you know, you have 10 minutes to speak, five minutes for questions. Please give your name for Hansard. It's good to see you here.

Mr. Daniel Bastien: Thank you. My name is Daniel Bastien. Good morning—sorry; good afternoon.

The Chair (Mr. Peter Tabuns): We feel the same way.

Mr. Daniel Bastien: Members of the Standing Committee on Regulations and Private Bills, thank you for the opportunity to speak today. My name is Daniel Bastien, and I'm a union organizer with UNITE HERE and I'm here on behalf of our Ottawa local, HSTU, Local 261.

I have been involved in a union organizing drive at three Novotel hotels in Ontario, including the Novotel Ottawa. Before I was a union organizer, I was a worker at the Novotel in North York. I worked as a waiter. I was on the organizing committee.

In the face of our organizing drive, the company has waged a fierce anti-union campaign leading to charges being filed at the labour board. One of the major charges that the union filed against the company concerned the termination of a worker at the Novotel Ottawa after he publicly expressed his support for the union. The worker was fired in March 2010, and the union applied for an interim reinstatement order. Unfortunately, the vote took place before the interim reinstatement could be ordered, and that issue has now been folded into the larger case. This case is still being heard at the labour board more than two years after he was terminated. The earliest we can expect a decision and some measure of justice is late 2013, more than three years after the vote.

Not surprisingly, I'm here today to discuss the need for increased labour board powers to make interim orders for reinstatement. It's important to keep in mind that beneath the technical-sounding legislative language, there are real people whose lives are deeply affected by these issues.

The worker I mentioned was terminated in the midst of a union organizing drive. You can imagine the message this sent. If you lived paycheque to paycheque and if you thought you might lose your job if you were seen as a union supporter, what would you do? How is that a fair vote?

The fact that this government introduced interim reinstatement is an important first step. Now we have to make sure that it serves its intended purpose. The labour board may well decide the worker was targeted due to his support for a union. So much damage has already been done to him and to his family, his relationships and all the workers who witnessed his case. This is the human story behind the proposed interim reinstatement language.

When workers publicly express their support for a union, we must have immediate and decisive protection from employer intimidation and reprisal. If the union and the company have different interpretations of what happened, it can wait to be sorted out after the vote. Interim reinstatement has to be uncomplicated and it has to be fast if workers are to feel some protection during the voting process.

For these and so many more reasons, I urge you to support Bill 77. Thank you for your time.

The Chair (Mr. Peter Tabuns): Thank you very much. Questions go to the official opposition. Mr. McDonell.

Mr. Jim McDonell: Thank you. In this case here that you're talking about, what powers are you looking at bringing forth or what way do you see the need for this to happen?

Mr. Daniel Bastien: Reinstatement has to be quick to work. If you're in an organizing drive and workers are trying to express their democratic right to form a union, and if one of the most visible leaders of the union, which this person was, gets fired—if it takes them three years to get their job back, that has a serious chilling effect on the organizing, and I think it effectively undermines people's democratic right to organize. I think for interim reinstatements to be effective, they have to be quick—if that helps.

Mr. Jim McDonell: What's your role in this? You say—are you from Toronto? You've worked on three drives. I'm just wondering what your involvement with the whole organization is.

Mr. Daniel Bastien: I am from Toronto, originally. I spent four years working as a waiter and room service guy at the Novotel hotel in North York. I pretty quickly got involved with the union drive there, for various reasons—it's just what I believe in. I was on the organizing committee. I was one of the more prominent union organizers inside.

As part of the campaign, the union was also organizing the Novotel in Ottawa and Mississauga, so I did go to both of those places to help out during crisis periods, to go and talk to those workers.

As of about some point in April, I was asked by the union to quit the hotel and become a full-time organizer, so now I'm just a full-time organizer with UNITE HERE.

Mr. Bill Walker: Just a point of clarification: I'm reading the front of your display, and it says that Accor agrees that they will not inhibit—I may be using my own words, but they acknowledge the right of employees to affiliate with the union of their choice and undertake not to oppose efforts to unionize their employees.

1650

Mr. Daniel Bastien: Yes.

Mr. Bill Walker: This is a mixed message.

Mr. Daniel Bastien: I agree; it's a bit of a problem. Accor international, or whatever it's called, the global form of this hotel company, signed an agreement with the IUF, which is the—it partly stands for the international union of food and a whole bunch of other things. It's basically the umbrella organization for agricultural, food and hospitality-related unions. So they signed an agreement with them, a trade union rights agreement, I believe, in the mid-90s, and they said they would not oppose any efforts to unionize anywhere in the world. I think their behaviour in Ontario demonstrates that their actual practices are very different from what they agreed to.

Mr. Bill Walker: So have you explored, through the Employment Standards Act, your legal right to challenge that?

Mr. Daniel Bastien: I can't speak to that directly. We're going through the OLRB mostly. I don't think that the ESA would be particularly helpful in this case.

Mr. Bill Walker: My concern is—again, I'm trying to draw the parallel or the challenge that you have to go to the ESA. If there are laws in place that protect people that are non-unionized and you're working in a non-unionized environment, why would you not explore that? Why are you so pro to form a union as opposed to utilizing the tools that are in existence? We heard earlier in deputations that someone else did challenge, and they won their—

Mr. Daniel Bastien: Well, I'm not here to speak on the Employment Standards Act and its effectiveness. That's definitely a whole topic of conversation. I'm here to talk about specifically Bill 77 and reinstatement of fired workers. So my perspective is that, sure, we have the Employment Standards Act; it's good that it's there. However, we do have a democratic right to form unions, and the laws, I believe, do not adequately protect that.

Mr. Bill Walker: If you can respect where people like myself, who are relatively new—I'm looking at a lot of different areas. I respect the thought process that there are really five key tenets of Bill 77. But there are further ramifications once that union is formed, which we're not discussing here today. That's what a lot of my constituents will talk to me about. One of them that we've talked about, certainly, is that ability to pay. It may not be quite as applicable in your industry, but if someone comes in and bids on a contract, for example, for a fixed-price contract over a three- or five-year period, and then a year later people decide to unionize—which is going to incur increased costs for wages, benefits and whatever entitlements they're able to negotiate—that employer now does not have the ability to pay, necessarily, because they didn't see that coming, they didn't know that was going on. If the margins are small, they have huge concerns: "Now I'm in a bind. I signed a contract in good faith, at X dollars. Someone is going to now unionize and increase my cost."

Bill 77 doesn't get into that piece, but we have to look at that—or I certainly have to look at that so I'm well-rounded in my thought process before I would be able to say aye or nay. Those are concerns that are legitimately being brought to me by the people on the other side, who are the employers paying.

Mr. Daniel Bastien: I'm sorry, was there a question?

Mr. Bill Walker: Well, I'm again trying to ascertain—you want to stick just to Bill 77, but part of my questioning is so that I can get the broader perspective. There are employment standards in place, they're legal; other people have chosen to utilize those and have won, as we've heard in this hearing today. You virtually are saying either you won't or you're not going to go there; it's only union. So I was trying to figure out, if you haven't explored that, why you wouldn't. If you have explored that, are there deficiencies, are there things that you can provide to me so that I understand that better?

Mr. Daniel Bastien: I'm trying to think how to formulate my thoughts.

Mr. Bill Walker: If I can ask in another way—

The Chair (Mr. Peter Tabuns): Mr. Walker, Mr. Bastien, I'm sorry; you're out of time. Thank you very much.

Mr. Bill Walker: Thank you.

Mr. Daniel Bastien: Thank you.

UNITED FOOD AND COMMERCIAL WORKERS CANADA

The Chair (Mr. Peter Tabuns): I'm calling the United Food and Commercial Workers. I have Kevin Shimmin, Jorlin Rafearo and Jodie Pratt. My apologies for any bad pronunciations there. You have 10 minutes to speak, five minutes of questions. If you could introduce yourselves for Hansard and then begin.

Mr. Kevin Shimmin: Thanks a lot, Peter, and good afternoon. We have to apologize. Jodie was able to join us, but Jorlin wasn't, so I'm going to briefly summarize a few points that we're concerned about, and Jodie's going to share her story about her experiences going through the organizing process.

On behalf of 240,000 members across Canada, including 120,000 in Ontario, I welcome the opportunity to comment on Bill 77.

Freedom of association and the right to join a union without fear of reprisal is a critical condition, as we all know, for a fair and democratic society. We believe that Bill 77 takes a modest yet important step in protecting these rights.

Our presentation is on behalf of our members—your neighbours, your constituents. The majority of our membership is women. More than 30% of our members are below the age of 29, and many of our members are new immigrants. These are the people, the vast majority of Ontario, who need and deserve the proposed improvements in Bill 77.

I'll quickly focus on three aspects of the bill pertaining to the organizing process itself.

First, the current practice of requiring an employer to provide an employee list only two days prior to a certification vote places Ontario's workers at a severe disadvantage. It is a process that all too often we see employers intentionally abuse, to stop workers from voicing their decision freely. It also allows employers to significantly undermine the authority of the labour board itself.

Bill 77 will permit a union to ask the labour board to direct an employer to provide a list of employees when a threshold of 20% of workers have expressed a desire to form a union. This proposal will bring the voting procedure in line with general democratic procedures for provincial and federal elections. In fact, the 20% threshold is much higher than the Election Act requires.

Second, today workers in Ontario have many rights on paper but in practice, these are not being implemented. Time and again, employers discipline, discharge and discriminate against people who exercise their basic rights at work. The message sent to all workers is that an employer can fire anyone for trying to join a union. The economic hardship and trauma experienced by workers who have lost their jobs simply because they engaged in collective action cannot be understated.

Bill 77 proposes that workers who have been discriminated against can be immediately reinstated, pending the outcome of a hearing. This improvement will send a clear message to the people of Ontario that workers do have fundamental rights and that the government is prepared to protect them.

Third, unlike municipal, provincial and federal elections, the union certification process in Ontario is strictly controlled by one party, and that's the employer. Placing a ballot box outside the manager's office, where supervisors can freely line up and intimidate people, is certainly not a democratic process. Like government elections, it is imperative that we conduct certification votes in clearly neutral locations, and we must consider off-site locations that are agreed to by workers and their representatives. Bill 77 makes these positive changes possible.

I don't want to speak too long, because I think it's critical for you to hear directly from workers who have experienced the intimidation and the discrimination which currently plagues the organizing environment. It is their voices that matter most, as you consider the benefits of Bill 77, so please listen carefully.

I would like to introduce to you Jodie Pratt.

Ms. Jodie Pratt: Hi, everyone. My name is Jodie Pratt. I'm a single mother. I work at ICJ, which is a co-packer for Minute Maid. We make juice.

I worked there. I was very well liked. I was a very good employee. I was complimented many times about my work performance.

Just this past Good Friday, I realized that my employer does not pay properly under the ESA. They employ about 90% new immigrants; this is their first job. I contacted the union, with Amy, to get some help with this issue and felt that these people needed to be protected. If you question my employer in any way, you will be fired.

1700

When I contacted them, we tried to organize a union. I met with Amy. Everything was great. We went in there. We had a positive attitude. Since then, I've been fired. I was brought back on an interim basis after three weeks. This was devastating to my family. Sorry. It's hard.

Since I've been back, my employer intimidates me every day. Every day, I take lunch with three management staff who stand there with their arms folded looking at me. Every day they ask me—they intimidate me every day.

I had access to the building. I no longer have access to the building. My access card works at 9 when I'm to start work at 7. They found out through—they asked—I'm sorry. I'm very nervous.

The Chair (Mr. Peter Tabuns): That's all right. Just take your time and be calm.

Ms. Jodie Pratt: They put a headhunt out for all of us. They asked supervisors to ask other employees who was signing union cards. Seven of us were fired. They found out. They offered bribes to them, increased wages to people who were—what do you call them?

Interjection.

Ms. Jodie Pratt: Temporary employment people. They were offered permanent positions and gained permanent positions if they told which people were signing union cards.

Since I was fired and brought back, it's put such a chill into the place. Nobody will talk to me. I was probably one of the most popular people at the workplace; I was very outgoing. It's not like that anymore.

So it's constant harassment every day, even from upper management. I was told by my supervisor that I was fired for union activity. That was clearly stated. We have filed charges with the union board, and we'll see in August what happens. That's all I have to say.

The Chair (Mr. Peter Tabuns): Okay. Did you have any more that you wanted to add?

Mr. Kevin Shimmin: No, I can't really add anything to Jodie's story. This is something that our union experiences every day. Most of the people we organize are in non-standard work, so part-time, very insecure, low wages. This is all too common a practice in the current environment, where people can very easily be terminated for trying to organize a union.

With the list, Jodie mentioned to me on the way here, as well, that if we were able to have a clear list that we could agree to on who actually works there, then it would be much easier to find out who supports the union and who is against the union. But with the lists in Ontario, all too often people are added to the list, people who work there are not put on the list, and combined, you can see it's a very undemocratic process and very intimidating for many workers.

Ms. Jodie Pratt: My workplace uses temporary workers. The agency they use is actually the former plant manager's temporary agency. They literally recycle employees there. Every two weeks, there are new temporary employees that come. There's no job security.

The Chair (Mr. Peter Tabuns): Okay. I thank you for that presentation. Mr. Natyshak from the third party has the questions.

Mr. Taras Natyshak: Thank you, Kevin. Thank you, Jodie. Thank you for your courage, not only to appear here today before our committee, but to stand up for your fellow co-workers and try to better your working conditions for not only yourself but for those you work with. Your story is compelling. It's really the reason why some of the provisions—well, all the provisions—are built into this bill: to add some fairness, add some protection into our labour relations act.

It's compelling not only to me, but I hope it compels—I think it does. You're our last deputant today, if I'm not mistaken, Chair. I would also say that about 100% of our deputants today spoke in favour of this bill, which I think is maybe a record, but your story maybe puts a real, hard emphasis on why we need to be compelled to stand up and to ensure that that type of scenario doesn't play out. We think we live in such a modern society, yet when that can happen to someone who obviously was a good, productive worker—you enjoyed your workplace; you were just looking for a little bit more fairness—I think we've got more to do to bring us to a modern state. I'm wondering what specific provisions—one of the provisions here is the off-site voting for certification. Knowing that that is available for you as a worker, knowing that you can go off-site to a neutral site and vote to certify your workplace, do you think that just knowing that that exists would have avoided this scenario playing out?

Ms. Jodie Pratt: I do, a bit. I definitely love that aspect, but I think the initial employee list is probably the most crucial and best thing that could happen. We need that list. Obviously, there's tons of different avenues that they can take to use temporary employees and then replace those temporary employees so you actually don't ever really know who's working there on each shift. Once I started the union, I wasn't allowed in there. The second I would, the supervisor would walk me to the punch clock and walk me out. So there was no time to find out which employees were actually temporary workers or which employees were actually ICJ co-packer Minute Maid workers.

Mr. Taras Natyshak: Many of the deputations today spoke about the relation between our democratic system of voting at the federal, provincial and municipal levels and this system that we're proposing today. As candidates, we all get a list of every member of our community's names, addresses and phone numbers immediately upon being certified as a candidate. I don't know why that can't be the same process in this circumstance when we're talking about individuals' right that exists to bargain collectively. I think that you hit the nail on the head in terms of its importance in bringing some fairness. I'm hopeful that, again, your story compels us to move that piece forward. Any more comments you'd like to add, if the Chair has any quick seconds on the clock?

The Chair (Mr. Peter Tabuns): There is time for just one quick question. Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much, Jodie, for your courage to come here and tell your story. I'm very familiar with the type of employers that, as you said, recycle employees, that bring in new temporary workers, and that pull for that employee to become permanent may just outweigh his moral thinking because of the wages that people earn as temporary employees. I've done quite a bit of work in this area, and one of the most unfortunate parts is that the temporary employees are usually new immigrants and they don't come forward. We do have laws and rules with respect to helping them with the situations that you've described, but it's just unfortunate that they don't come forward. I've gone to various ethnic communities in various ways to advise people that there are rules: "Tell us your story. There is a remedy to the abuse that you're facing." So I just wanted to say thanks for coming.

The Chair (Mr. Peter Tabuns): Mr. Dhillon, thank you for that.

We've now come to the end of our agenda. This meeting concludes. The committee is adjourned. Thank you all.

The committee adjourned at 1710.

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